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42
A HANDY-BOOK

OF THE

LABOUR LAWS;

BEING

A Popular Guide

TO THE

EMPLOYERS AND WORKMEN ACT, 1875;
CONSPIRACY AND PROTECTION OF PROPERTY
ACT, 1875.

TRADE UNION ACTS, 1871 AND 1876;
RUSSELL GURNEY'S ACT, 1868;
ARBITRATION ACT, 1872;

WITH INTRODUCTIONS, NOTES, AND THE AUTHORISED
RULES AND FORMS,
FOR THE USE OF WORKMEN.

By GEORGE HOWELL,

LATE PARLIAMENTARY SECRETARY TO THE TRADES UNIONS OF GREAT BRITAIN.

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PREFACE.

THIS is not intended as a text-book for lawyers, but as a guide-book for workmen. My object has been to give the true legal meaning and force of the Acts and their application, and at the same time avoid, as far as possible, legal technicalities and minute references.

I regard these Acts as a great boon to the industrial classes—as, in fact, the charter of their social and industrial freedom, the full value of which is not yet understood or appreciated.

If administered in the same frank and just spirit with which they were conceived and passed by the Legislature, they will be found to fully cover the demands made by thoughtful and intelligent workmen through long years of earnest agitation.

It has always been a matter of regret to me, and to others, that these demands were generally looked upon as “outrageous” (I quote the word from a

newspaper), and the leaders who urged them as extreme, and who were not unfrequently treated to an unfair share of misrepresentation and abuse. In some quarters this persistent misrepresentation continued until the very eve of the introduction of the Government measures.

No doubt some of this abuse was the result of a misunderstanding as to the exact nature of the demands made, and also as to the objects sought; for in many cases it was supposed that these embraced a latitude of action which no law-abiding or order-loving citizen could for a moment tolerate. Some portion of this mistake was caused, no doubt, by the advocacy of men whose expressions were too general and sweeping.

This again was strengthened by the occasional acts of violence which came before the courts, but which were not justified by the unions or by the "leaders," not even when sometimes legal assistance was rendered, with the object of mitigating the severe penalties of the law.

On the introduction of the Government measures all this feeling changed, and the tone of the public Press became even laudatory, especially of Mr. Cross and his two Bills, and some newspapers were even

just to the demands of the workmen. Much of this change was undoubtedly due to the frank and generous speech of Mr. Cross, and to the hearty acceptance of the measures by the House. The change in the tone of the speeches delivered in Parliament during the whole of the debates was most gratifying; not one single word was uttered to which exception could be taken by the most sensitive workman.

The amendments made in the Bills during their passage through the House were many and important, one and all of them being to the advantage of the workmen. The more important of them were—the repeal of the Criminal Law Amendment Act, the alternative of fine for imprisonment, the abolition of imprisonment for failure to comply with an order of the court for performance of contract, or for non-payment of the sum specified in the undertaking, and the substitution of the power to recover money paid by a security as a debt, the reduction of the term of imprisonment for an apprentice from one month to fourteen days, the abolition of forfeiture of wages, the reduction of penalties under other Acts, having reference to disputes between employers and workmen, to one-fourth the penalty, the penal clause for

being drunk and disorderly was struck out, the intimidation section was made general, as was also the section applying to breach of contract by persons employed in the supply of gas or water, and the public notice of the section made compulsory, with heavy penalties in default thereof. The value and importance of these amendments can only be known to those who have thoroughly studied these measures, and watched every clause during the debates.

The general effect of these legislative changes may be summed up as follows:—The abolition of the special penal laws affecting workmen, breaches of contracts of service made civil offences instead of criminal, and the abolition of conspiracy as applied to labour disputes.

The officers and working class leaders, whose special duty it is to watch over the interests of the workmen for whose benefit these measures were passed, must carefully weigh every decision given under these Acts, and, as far as possible, see that they are administered without undue severity. The earlier decisions, if they appear to manifest oppression, must be appealed against, so as to obtain the ruling of the superior courts. Inasmuch as the civil courts under the Acts are not courts of record, or are

only so in a very technical sense, it will be well to keep all those decisions which are reported in the newspapers for constant reference.

If these Acts are carefully studied by the workmen (and for this purpose every lodge of every society in the kingdom ought to possess at least one copy for reference), they will avoid loss of time and money, and other annoyances, and the societies to which they belong will not be mulcted in hundreds, or even thousands, of pounds in costly litigation.

In order that this little book may be as complete as possible, in addition to those laws which were passed last session, I have given the Trade Union Act, 1871; Russell Gurney's Act, 31 and 32 Vict., cap. 116, an Act to Amend the Law Relating to Larceny and Embezzlement, July 31st, 1868; and the Arbitration Act of 1872, with such notes as may be necessary to increase their usefulness.

In preparing this work for the Press, I have had the advantage of submitting the proof sheets to several able gentlemen conversant with the law, and especially with the matters here dealt with; their knowledge and experience have been of great value to me, and will give additional value to the book. I must here express acknowledgments and

thanks to each and all of those gentlemen for their valuable aid, and friendly advice.

I have also availed myself of such help as I could obtain from works already published on some of these questions, such as those by Mr. J. E. Davis, Mr. W. Guthrie, and others.

GEORGE HOWELL

May 31st, 1876.

PREFACE TO SECOND EDITION.

THE first edition, of 2,000 copies, has been exhausted in less than two months, and a second issue required to complete orders already on hand. This is somewhat unusual with regard to law-books, which have necessarily a limited number of readers, and consequently a restricted circulation, but in this particular case the author had a large circle to whom he could appeal, and the response, especially in so short a time, has been beyond his most sanguine expectations.

The notices in the press have been most generous in their commendation; extracts, faithfully taken, are given at the end of the book, but they call for no special answer except in one case where the reviewer speaks of "political manifestations." It certainly was not my intention to manifest any "political bias" in my book, but it was very natural that I should view these laws from the standpoint of the workmen, when the position, so long occupied

by the writer, was taken into consideration, and especially when it is remembered that he was continually engaged in the discussions which arose on the several clauses of these statutes.

But I was particularly anxious to define the law accurately and to represent it fairly as between the employer and the workman, and I felt tolerably certain that I had succeeded fairly well when I read the review in the organ of the Federated Employers, *Capital and Labour*, which I have given *verbatim*, because it is the generous tribute of those to whom I had often to be opposed in my efforts to get these laws passed.

It is, and always has been, my desire that the law should be obeyed in every case; if, in my opinion, the law were unduly severe I sought to have it amended or repealed in a loyal and constitutional manner, but so long as it was the law I counselled obedience to it. Now that the law is fairly just and equitable I have the less hesitation in urging strict obedience to it, and of enjoining on all those whose duty it is to watch over the interests of the workmen to do all in their power to restrain those who are impulsive and impatient of restraint, so that the law shall not be infringed either in its letter or spirit.

If I call in question some decisions, or some of the interpretations of our judges, it is because I feel that the full force of these laws is not as yet quite appreciated even by some of our judges. No authoritative ruling has as yet been given with regard to section 7 of "The Conspiracy and Protection of Property Act," and I cannot but express a hope that when it is given there will be no attendant circumstances to aggravate a feeling of repression.

One object of my little book is to prevent actions at law, not to encourage them. This, it is hoped, will be the case by pointing out honestly the duty of each to the other—employer to the employed and *vice versâ*. I hope courts of law will be troubled less and less by these unfortunate disputes, and that both parties, the employer and the employed, will be able to see their way clear to an amicable settlement of all differences from whatever cause they may arise.

The conflicts of capital and labour are not an edifying sight at any time; on the one hand there is suffering and misery, and on the other heavy losses, often ending in the bankruptcy court, or perhaps ruin, and in any case such a loss of capital as to cripple an employer for years to come.

A little concession at the outset would often avoid

all this if both parties would only meet together to discuss the point or points in dispute. There is no loss of dignity in doing this from whichever side the offer first comes; on the contrary, it shows a high and honourable disposition and mind. And here I would take the liberty of expressing the opinion, formed after many years' experience, that employers often form an erroneous opinion as to the efforts of the "leaders," as they are called, of working class movements, namely, that they cause, or foment, these trade disputes. I can, after long experience, say that as a rule the contrary is the case; they have nothing to gain by these angry disputes, and they are often the last to assent to a strike because they know full well their too often baneful results. They frequently resist a strike to the utmost, and only consent when all chance of an amicable settlement is at an end.

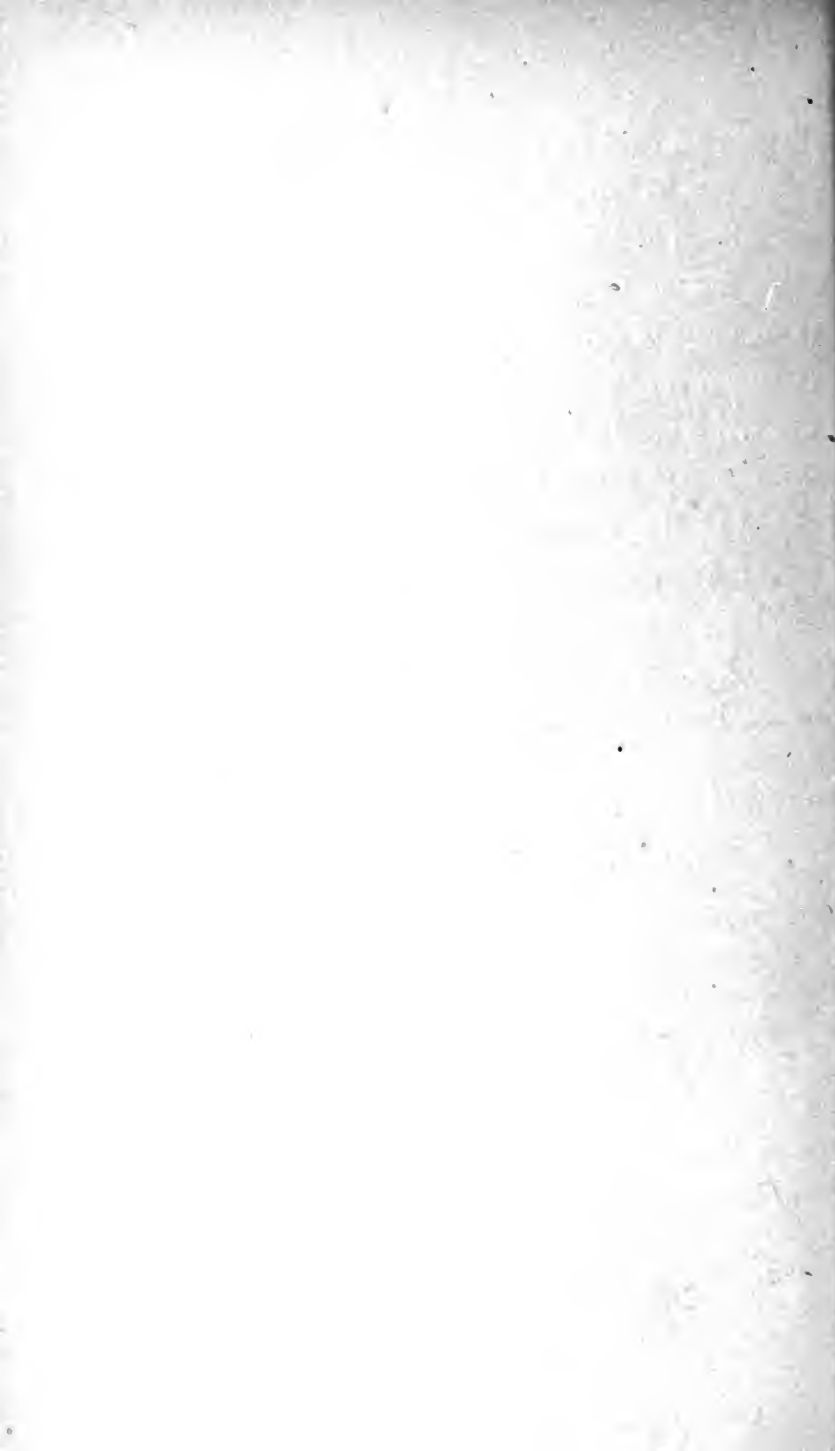
When employers know somewhat of the internal working of those much-abused societies—trade unions—they would know that rashness comes from inexperience and ignorance, and that all the efforts of the best and wisest are employed to prevent, and not to hasten strikes. Speaking now from an independent position, I can give this credit to the officers of trade unions; and I would venture to suggest to employers

that they would do well to bury their old prejudices as to the leaders, to take them into their confidence sometimes, and thus avoid these calamitous conflicts.

To the members of the unions let me say that it is their duty to read and understand the laws relating to labour for themselves, for which purpose this book was written. It is published at a price to be within the reach of every workman in the kingdom. The object of the writer was not gain, but usefulness; if it had been the former, the price would have been much higher, and the pains taken to make it valuable much less. I can only hope that working men will obtain it, and read it carefully for their own protection.

GEORGE HOWELL.

August 30th, 1876.



A HANDY BOOK OF THE LABOUR LAWS FOR THE USE OF WORKMEN.

CHAPTER I.

THE EMPLOYERS AND WORKMEN ACT.

INTRODUCTION.

§ I.—THE true basis and scope of this Act are explained by its short title—Employers and Workmen Act—which denotes that there shall be equality before the law as regards labour contracts, which are no longer treated as between Masters and Servants, but Employers and Workmen. Short Title.

This is so well expressed by Mr. Cross, the Home Secretary, that we quote his own words: "For the future, contracts of hiring and service shall be as free and independent both for master and servant as any other contracts between other persons." Breach of contract, therefore, is no longer a criminal offence. Scope of the Act.

§ II.—The Act came into operation on the first day of September, 1875. It is dated August 13th, 1875, which is also the date affixed to Commencement of the Act.

the "Rules for carrying into effect the Jurisdiction given to Courts of Summary Jurisdiction in England by the Employers and Workmen Act, 1875, 38 and 39 Vic. c. 90," signed by the Lord Chancellor.

Tribunals.

'The tribunals for hearing and determining "disputes" between employers and workmen are two:—

County
Courts, Sheriff
Court, Civil
Bill Court.

§ III.—1st. The County Court in England, the Sheriff Court in Scotland, and the Civil Bill Court in Ireland.

Powers as to
ordering pay-
ment of
money, set-
off, rescission
of contract,
and taking
security.

The Act simply adds to the powers previously exercised by these courts in relation to any dispute between an employer and a workman, powers to adjust and settle claims arising out of, or incidental to, the relation between them in respect to wages, damages for breach of contract, or other wrongs, and to rescind such contracts upon terms, or accept security for the performance of contracts instead of awarding damages for their breach.

Courts of
Summary
Jurisdiction.

§ IV.—2nd. Courts of Summary Jurisdiction. It is enacted that "a dispute between an employer and workman may be heard and determined by a Court of Summary Jurisdiction, and such court for the purposes of this Act shall be deemed to be a Court of Civil Jurisdiction."

Jurisdiction
of Justices.

The Court of Summary Jurisdiction thus constituted comprises—(1.) Within the City of London, the Lord Mayor or an Alderman,

sitting at the Mansion House or Guildhall Justice Room. (2.) In any Police Court Division in the Metropolitan Police District, any Metropolitan Police Magistrate sitting at a police court for that division. (3.) In any place where a stipendiary magistrate is, for the time being, acting, such stipendiary magistrate sitting at any police court or other appointed place. (4.) Elsewhere any justice or justices of the peace to whom jurisdiction is given by the Summary Jurisdiction Act. But, in this last instance, a complaint under this Act can only be heard and determined, and an order for imprisonment made, by two or more justices of the peace, sitting in petty sessions at some place appointed for holding petty sessions.

In places where stipendiary magistrates are appointed, the county and borough magistrates have no jurisdiction under this Act.

Stipendiary
Magistrates.

The powers conferred on County Courts and Courts of Summary Jurisdiction are:—1st. The court may adjust and set-off one against the other all such claims on the part either of the employer or of the workman, arising out of or incidental to the relation between them, as the court may find subsisting, whether such claims are liquidated or unliquidated, and are for wages, damages, or otherwise; and

Powers of the
Court to ad-
just and set-
off claims.

2nd. It may, if it thinks it just to do so under the circumstances, rescind any contract

To rescind
contracts.

between the employer and the workman upon such terms as to apportionment of wages or other sums due thereunder, and as to the payment of wages or damages, or other sums due, as it thinks just ;

To order the performance of contract.

3rd. Where the court might otherwise award damages for any breach of contract it may, if the defendant be willing to give security to the satisfaction of the court for the performance by him of so much of his contract as remains unperformed, with the consent of the plaintiff, accept such security, and order performance of the contract accordingly, in place either of the whole of the damages which would otherwise have been awarded, or some part of such damages.

SECURITY.

Mode of giving security.

§ VIII.—The security shall be an undertaking by the defendant, and one or more surety or sureties, that the defendant will perform his contract, subject, on non-performance, to the payment of a sum to be specified in the undertaking. The mode of giving security may be by an oral or written acknowledgment, under the direction of the court. A form of such undertaking is given in the rules, Schedule 10.

Surety may recover payment and

Any sum paid by a surety on behalf of a defendant in respect of a security under this

Act, together with all costs incurred by such surety in respect of such security, shall be deemed a debt due to him from the defendant, and payment thereof may be ordered by a Court of Summary Jurisdiction where the security has been given in such court.

costs from
defendant.

The ordinary jurisdiction of the County Court is limited to £50, but this limit is not repeated in this statute.

County
Court's juris-
diction as to
amount.

The jurisdiction of the Courts of Summary Jurisdiction is limited to £10, and no order can be made by any such court for payment of any sum exceeding £10, exclusive of costs, and no security can be required, either from the defendant or his surety or sureties, to an amount exceeding £10.

Jurisdiction
of Courts of
Summary
Jurisdiction
limited to £10.

In all other respects, these Courts of Summary Jurisdiction may order payment of any sums which they may find due as wages, or damages, or otherwise, and may exercise all or any of the powers by this Act conferred on the County Court.

Courts of
Summary
Jurisdiction,
powers of,
assimilated to
the County
Courts.

The powers here conferred are so just, and the means of enforcement so equitable, that any argument or observation in regard to them would be superfluous.

PROCEDURE.

The Act gives power to the Lord Chancellor from time to time to make, and when made to

Rules of
Lord Chan-
cellor as to
procedure.

Date of Rules.

rescind, alter, and add to, rules with respect to giving security, and for carrying into effect the jurisdiction given by the Act to Courts of Summary Jurisdiction, and, in particular, for the purpose of regulating the costs of any proceedings in such courts. In the exercise of this power the Lord Chancellor issued Rules, dated August 13th, 1875. To these rules are appended Schedules of forms and costs.

These rules and forms carry out the intentions of the Act which makes the Courts of Summary Jurisdiction civil courts for the purposes of the Act, and assimilates the procedure and practice of these courts as nearly as possible to the County Courts.

The powers thus conferred on the Lord Chancellor appear at first sight to be greater than they really are. For the "rules" of the Lord Chancellor cannot in any way override, enlarge, or alter the jurisdiction or power of these courts under the Act, or in any way contravene its spirit or intention. They have reference to procedure alone.

County Court
Judges,—
Rules as to
procedure.

Judges of County Courts have power also to make rules with regard to procedure in their own courts; this power is vested in a committee of five Judges, called the Lord Chancellor's Committee; this committee prepares, and the Lord Chancellor approves, of the rules. Under rules issued by them, and

approved by the Lord Chancellor, which came into force on the 2nd day of November, 1875, Date of Rules. and the amended rules which came into force on the 3rd day of April, 1876, the powers under the Act may be exercised without the parties being under the necessity of giving the notices required in other cases where a defendant makes a special defence, or sets up a counter claim against the plaintiff, or a claim to contribution, indemnity, or other remedy or relief against any other person, or desires to defend on behalf of others.

JURISDICTION OF THE ACT.

The jurisdiction of the Act applies to persons and to things. The persons are employers and workmen.

1st. A workman as defined by the Act Workmen as defined by the Act. "means any person who, being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner, or otherwise engaged in manual labour, whether above or under twenty-one years of age," has entered into, or works under, a contract with an employer. Domestic or menial servants and seamen, or apprentices to the sea service, are excluded.

2nd. Employers are those who have a contract with a workman, and, from the nature of the above definition of a workman must be those Employers within the meaning of the Act. who employ workmen as defined by the Act.

Jurisdiction
of the Act as
to contract of
service.

THINGS.—The particular thing to which the Act refers is a contract between an employer and a workman.

Contract as
defined by the
Act.

The term workman under the Act “means any person who has entered into, or works under, a contract with an employer, whether the contract be made before or after the passing of the Act, be express or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour.”

“Implied”
contract.

It appears by the wording of this clause that it must be a contract between the employer and his workman. But the use of the word “implied” gives to this clause a very wide meaning. A contract, however, is not within the Act unless it be either a contract for doing work as a servant, or a contract by a person personally to execute work or labour.

Subject mat-
ter of jurisdic-
tion under
the Act.

The subject matter of jurisdiction is, “any dispute between an employer and a workman arising out of, or incidental to, their relation as such.” The word dispute, as here used includes every claim which can be set up as a rightful cause of action, and will, therefore, embrace wages, time, contracts, non-performance of duty, absenting from work, and similar matters whenever they can become legitimate cases for the court.

Customs,
rules, and
regulations

An implied contract will cover all customs, rules, or regulations of the locality where the

work or service is performed, or the special rules or regulations of the employer or firm if the workmen have, by working under them, given a tacit assent to them, provided that the contracting workman has not made an express stipulation to the contrary.

covered by words - implied contract.

It follows, therefore, that it is most important that all labour contracts should be express and definite, orally or in writing, and where possible such contracts should be always in writing, for by this means only can workmen avoid disputes with their employers, and prevent ruinous costs in courts of law, either to themselves or to the societies to which they, as members, belong.

Labour contracts should be express and definite.

It is moreover important to recollect that no mere sentimental grievance will be accepted in a court of law as a plea for the non-performance of a contract. A man, having entered into a contract, is bound in honour, as well as in law, to perform his part of such contract, provided such contract be *bona fide*.

Plea as to non-performance of contract.

Workmen must be particular in entering into contracts, and must not break them when made, and organized bodies of workmen must insist upon their members fulfilling all the conditions of the law honestly and fairly on their part, and thereby prevent heavy costs, and ruinous disputes; and it would be well that more prominence should be given to the subject of contract and breach of contract in the rules of the Trades Societies

Importance as to fulfilment of contract.

Cases, however, will occur which give rise to dispute; in every such case the defence must be *bona fide*.

Proof of contract necessary to be given to the Court.

In any case brought before the court it is the plaintiff's duty to prove that a contract existed, and the nature of such contract, and that the defendant broke such contract without reasonable excuse, and that he (the plaintiff) suffered loss or injury thereby.

Plea as to non-existence of contract.

On the other side, the defendant must prove that there was no such contract, or that he (the defendant) had justifiable reasons for breaking it; or, in mitigation of damages, that the plaintiff did not suffer loss or injury sufficient to justify him in bringing the case before the court.

Other pleas may be advanced in mitigation of damages, but in all cases such pleas must be *bona fide*.

VALIDITY OF CONTRACTS.

Contracts, validity of.

(1.) It is a principle of law that a consideration, *i.e.*, value received, or to be given, is essential to the validity of a contract, not under seal.

(2.) Contracts must also be valid according to the general law.

Agreements exempt from stamp duty.

(3.) Agreements, of the nature of contracts, under this Act are exempt from stamp duty.

MUTUALITY OF CONTRACTS.

Courts of law have declined to enforce unequal contracts between masters and servants. In such cases, the equity of the contract has been considered as essential to bind both parties and by this Act contracts may be rescinded.

Unequal contracts.

From this it would appear that a contract, to be mutual, must give corresponding rights to both parties; and, therefore, in those cases of frequent dispute, relating to discharge or leaving work without formal notice, the right to do so in the one case would give a similar right in the other, at least in the absence of usage or express agreement to the contrary effect.

Contracts to be valid should be mutual.

See Appendix E.

It should, however, be recollected that, if a contract really existed, whether orally or in writing, expressed or implied, and if one of the parties to such contract failed to enforce it, such failure on the part of one of the contracting parties would be no bar to proceedings on the other side. For instance, if the employer discharged a number of his workmen in violation of an existing contract, and the workmen so discharged failed to take steps to enforce it, their failure to seek legal remedy would be no set-off to a similar breach of contract on the part of any of the remaining workmen, if the employer brought them before the court.

Failure to enforce contract by one of the contracting parties no bar to proceedings on the part of the other.

Plea in mitigation of damages.

To state it in a few words, the failure to enforce a contract on the part of one of the parties to it does not annul the right of proceedings on the part of the other ; it would, no doubt, have some weight in regard to the amount of damages awarded by the court, but that would be the utmost.

CAPACITY TO CONTRACT.

Validity of contracts on the part of married women.

(1.) Married women are generally incapable of entering into a binding contract, and it seems that contracts cannot be enforced against them under the Act.

Cases cited.
Tomkinson v. West.

In the case of *Tomkinson v. West*, a married woman, who was employed at weekly wages, left her employment without giving due notice. Being summoned, the magistrates refused to convict her on the ground that she, as a married woman, was incapable of contracting, and that consequently there was nothing to bind her as between her and her employer. It was held by the Court of Queen's Bench that the magistrates were right. Easter Term, 1875. And in the case of *Hodkinson v. Green*, occurring soon afterwards, where the justices ordered a married woman, working as a weaver in a mill, to pay compensation, relying upon the Married Women's Property Act, 1870, as giving her power to contract. The Court of Queen's Bench held that the justices were wrong.

Decision,
Court of Q.B.

Hodkinson v. Green.

Decision,
Court of Q.B.

Sittings after Easter Term, 1875. These decisions are still held to be good in law.

It has also been decided by two Metropolitan magistrates that contracts cannot be enforced against married women under this Act. See reports in Appendix D.

Decision of
Metropolitan
magistrates.

(2.) Minors are included under the Act as capable of entering into a contract under it.

Minors com-
petent to
contract.

(3.) Apprentices under the Act are limited to those who are apprenticed to the business of a workman as defined by the Act, upon whose binding either no premium is paid, or the premium does not exceed £25, and apprentices bound under the provisions of the Acts relating to the relief of the poor.

Apprentices,
limitation as
to by the Act,
§ xii.

§ V.—Any dispute between an apprentice to whom this Act applies and his master, arising out of or incidental to their relation as such, may be heard and determined by a court of summary jurisdiction.

Jurisdiction
of justices in
disputes be-
tween masters
and appren-
tices.

§ VI.—In a proceeding before a court of summary jurisdiction in relation to a dispute under this Act between a master and an apprentice, the court shall have the same powers as if the dispute were between an employer and a workman, and the master were the employer and the apprentice the workman, and the instrument of apprenticeship a contract between an employer and a workman, and shall also have the following powers:—

Powers of
justices in
respect of
apprentices.

To order performance of duties.

(1.) It may make an order directing the apprentice to perform his duties under the apprenticeship; and,

To rescind contract.

(2.) If it rescinds the instrument of apprenticeship it may, if it thinks it just to do so, order the whole or any part of the premium paid on the binding of the apprentice to be repaid.

Imprisonment for disobeying order of the Court.

Where an order is made directing an apprentice to perform his duties under the apprenticeship, the court may, from time to time, if satisfied after the expiration of not less than one month from the date of the order that the apprentice has failed to comply therewith, order him to be imprisoned for a period not exceeding fourteen days.

Order against surety of apprentice, and power to friend of apprentice to give security.

§ VII.—In a proceeding before a court of summary jurisdiction in relation to a dispute under this Act between a master and an apprentice, if there is any person liable, under the instrument of apprenticeship, for the good conduct of the apprentice, that person may, if the court so direct, be summonsd in like manner as if he were the defendant in such proceeding to attend on the hearing of the proceeding, and the court may, in addition to or in substitution for any order which the court is authorised to make against the apprentice, order the person so summonsd to pay damages for any breach of the contract of apprenticeship to an

amount not exceeding the limit (if any) to which he is liable under the instrument of apprenticeship.

The court may, if the person so summoned, or any other person, is willing to give security to the satisfaction of the court for the performance by the apprentice of his contract of apprenticeship, accept such security instead of or in mitigation of any punishment which it is authorised to inflict upon the apprentice.

As the power of imprisonment is retained by the Act in regard to apprentices, parents and guardians should exercise great care both with regard to the instrument of apprenticeship, and also as to the conduct of the apprentice during the term for which he is bound to serve. It is unfortunate that imprisonment is retained, inasmuch as it only tends to debase the apprentice who has to suffer it, and not to reform him.

Powers as to imprisonment not just or equal.

The penalty is, however, reduced to a minimum, but the order may be repeated any number of times.

No satisfactory reason can be given for retaining the power of imprisonment only with regard to the poorer class of apprentices, and not extending it to those who can afford to pay higher premiums. The limitation is certainly not a just one, and it mars the spirit of equality which pervades the Act.

SET-OFF IN CASE OF FACTORY WORKERS.

Factory
workers, set-
off in case of,
forfeitures,
&c.

§ XI. prohibits any forfeiture on the ground of absence or leaving work being deducted or set-off in the case of women or children subject to the Factory Acts, 1833 to 1874, against a claim for wages or other sum for work done, except to the amount of the damage (if any) which the employer may have sustained by reason of such absence or leaving work.

This clause is a valuable protection to those employed in the textile trades, for some employers have had rules by which, if the operative absents himself or herself, all the wages then due are forfeited.

Employers
may claim
deductions
for actual
damage.

In the event of a claim made under this statute against an employer by a woman or child who has, in breach of contract, absented herself or himself, or left work, such employer cannot claim any such forfeits, he must pay for the work done, but he may claim to have an amount deducted sufficient to compensate him for any damage he may have sustained by such breach of contract on the part of women and children.

This clause is a great protection against the hardships arising from the rules made by the factory owners, especially in North and North-east Lancashire. It has, however, already

been considerably narrowed and impaired by the superior courts of law. It has been twice decided that in a mill operative engaged on piece-work by the week, who leaves her employment without proper notice, the clause does not enable her to recover anything for the piece-work done in the broken week.

The section narrowed and impaired by decisions of the Superior Courts.

§ XVI. extends the application of the Act to Scotland, and gives the necessary definitions.

Application of the Act to Scotland.

§ XV. extends its application to Ireland, and gives the necessary definitions.

Application of the Act to Ireland.

RULES OF THE LORD CHANCELLOR.

One of the many advantages arising out of this Act will be the comparative inexpensiveness of its working. In all cases, except those involving legal and technical difficulties, and requiring great nicety of argument, workmen will be able to conduct their own case, either as plaintiff or defendant.

Rules as to procedure by the Lord Chancellor.

The following are the

METHODS OF PROCEDURE IN COURTS OF SUMMARY JURISDICTION.

(1.) ENTRY OF PLAINT AND CAUSE OF ACTION.—A person desirous to take proceedings under the Employers and Workmen Act, 1875, must deliver particulars in writing of his cause of action to the clerk of the court.

Methods of procedure.

Inaccurate description not to vitiate the plaint.

No misnomer or inaccurate description of any person or place, in any such plaint or summons, shall vitiate the same, so that the person or place be therein described so as to be commonly known.

Substance of cause of action to be given.

It will only be necessary to give the substance of the cause of action, such as "withholding of wages," "wrongful dismissal," "balance of wages," and the like. Rules 1, 2, 3, 4, and 5.

Set-off, or counter-claim.

(2.) HEARING.—No notice is required to be given by the defendant of any set-off or counter-claim.

Parties to be examined on oath.

The parties to the dispute will be examined on oath, and their wives and other witnesses who may be called.

Failure of plaintiff to appear.

If the plaintiff does not appear, the court may award to the defendant, by way of costs and satisfaction for his attendance, such sum as, in its discretion, it shall think fit.

Failure of defendant to appear.

If the defendant does not appear, or sufficiently excuse his absence, the court may adjourn the summons, or proceed to the hearing of the cause on the part of the plaintiff only, and the judgment thereupon shall be as valid as if both parties had attended. Rules 6, 7, and 8.

Open Court.

The court in all cases is to be an open court, to which the public may have access.

(3.) JUDGMENT SUMMONS.—No order for com-

mitment shall be made unless a summons, to appear and be examined on oath, shall have been personally served upon the judgment debtor. Rule 9.

Order for commitment.

This is a valuable protection against the abuse of the large powers given by the Debtors Act.

An order of commitment shall be made under the Debtors Act, 1869, and shall be according to the form in the schedule. Rule 14, Schedule 6.

After an order of commitment for non-payment of money is issued, the defendant may, at any time before he is taken into custody, pay the officer the amount endorsed on the summons, and be discharged. All costs incurred by the plaintiff may be recovered. Rules 15, 16, 17, and 18; Schedule 7.

Discharge after commitment on payment of amount.

(4.) Costs.—The costs must be paid, in the first instances, by every person seeking the assistance of the court. Rule 19. These costs are give in Schedule B.

Costs, by whom to be paid.

The court may allow any party the expense incurred in the employment of a solicitor, not exceeding 10s. when the claim exceeds 40s., and 15s. where it exceeds £5. Rule 20.

Expenses for solicitor to be allowed.

(5.) FORMS.—The forms used in the schedule shall be used. Rule 21.

Forms to be used.

APPEAL.

No express
provision as
to appeal.

There is no express provision for appeal against the decision of the courts, either in the Employers and Workmen Act, or in the Rules issued by the Lord Chancellor. It appears from the reading of the Act that an order by the Court of Summary Jurisdiction once completed is final, and cannot be varied or superseded, or the case reheard by the court, except in those instances expressly provided for by the Rules of the Lord Chancellor, or by way of a case stated by the Justices. The exceptions are stated in Rule 8, under the head of "Hearing."

Order of the
Court to be
treated as
conclusive.

An order of the Court of Summary Jurisdiction must be treated as conclusive, in the same manner as an order of the justices under the Summary Jurisdiction Acts, only to be varied or set aside by a superior court in the event of an excess of jurisdiction, or of erroneous decision in point of law.

Case for the
decision of a
Superior
Court.

Any case for the opinion of the superior courts must be under the authority and provisions of the Summary Jurisdiction Acts as before mentioned, by which Acts it appears that the court may state a case for the opinion of the superior courts. If the Magistrates refuse improperly to state a case the Court of Queen's Bench has power to compel them to do so.

Mr J. E. Davis, in his work on the Labour Laws, puts the case thus:—

“As the Court of Summary Jurisdiction is constituted of justices of the peace, and the dispute or matter is deemed to be a matter on which the court has authority to make ‘an order on complaint,’ in pursuance of the Summary Jurisdiction Act (11 and 12 Vic. c. 43), it seems that the court may state a case for the opinion of a superior court under Act 20 and 21 Vic. c. 43, which enacts (Sect. 2) that ‘after the hearing and determination by a justice or justices of the peace of any information or complaint which he or they have power to determine in a summary way, by any law now in force or hereafter to be made, either party to the proceeding before the said justice or justices may, if dissatisfied with the said determination as being erroneous in point of law, apply in writing within three days after the same to the said justice or justices to state and sign a case setting forth the facts and the grounds of such determination for the opinion thereon of one of the superior courts of the law to be named by the party applying,’ and makes provision for the granting and hearing of such a case.”—*Labour Laws*, pages 146-7.

Opinion of
Mr. J. E.
Davis as to
Appeal.
Work on the
Labour Laws,
pages 146 and
147.

CHAPTER II.

THE CONSPIRACY AND PROTECTION OF PROPERTY ACT.

INTRODUCTION.

Short Title.

§ I.—This Act is described by its title as the Conspiracy and Protection of Property Act, 1875, but conspiracy by the Act is wholly abolished as regards trade disputes, except conspiracies to commit what would be a “crime” if done by one person.

Commencement of the Act.

§ II.—The Act came into operation on the first day of September, 1875.

Amendment of the law as to conspiracy in trade disputes.

§ III.—CONSPIRACY.—This section must be read in conjunction with Section 2 of the Trade Union Act, 1871, which legalises combination of workmen. The words of that section are:—

Trade Union Act, 1871, § 2, Conspiracy.

“The purposes of any Trade Union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful, so as to render any member of such Trade Union liable to criminal prosecution for conspiracy or otherwise.”

Doctrine as to restraint of trade.

By this section of the Act of 1871 every possible combination of workmen, which would

before 1871 have been unlawful merely on the ground of its purposes being in restraint of trade, is expressly legalised, whether it be a temporary or permanent combination.

In the legal decisions given under the above clause, or the similar clause in the now repealed Criminal Law Amendment Act, while the trade object of the dispute was lawful, the means adopted by the workmen were declared to be illegal. But Section 3 in the New Act legalises all acts done in furtherance of the combination or dispute, if the acts so done are not in themselves "crimes" if done by one person. The words are :—

Decisions as to unlawful means to attain lawful object, under the Trade Union Act, and the Criminal Law Amendment Act.

"An agreement or combination by two or more persons to do, or procure to be done, any act in contemplation or furtherance of a trade dispute between employers and workmen, shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime."

Conspiracy as relating to trade disputes abolished.

Conspiracy, therefore, as relating to trade disputes must now be defined as a combination to commit a crime, whether that crime be the object or the means of the combination; for the common law of conspiracy, as affecting trade disputes, has been, by this statute, practically abolished.

DEFINITION OF CRIMES.—Clause 4 of Section 3 defines the sense in which "crime" is used in the first clause as follows :—

Definition of Crime under the Act.

“A crime for the purposes of this section means an offence punishable on indictment, or an offence which is punishable on summary conviction, and for the commission of which the offender is liable under the statute making the offence punishable to be imprisoned either absolutely, or at the discretion of the court as an alternative for some other punishment.”

Limitation of
penalty.

PENALTY.—Clause 5 of Section 3 contains an important limitation of the penalty for an offence under Clause 4. The words are:—

“Where a person is convicted of any such agreement or combination as aforesaid to do or procure to be done an act which is punishable only on summary conviction, and is sentenced to imprisonment, the imprisonment shall not exceed three months, or such longer time, if any, as may have been prescribed by the statute for the punishment of the said act when committed by one person.”

This limitation of the term of imprisonment to three months is of great importance with regard to offences under Sections 4, 5, and 6 of this Act.

Breach of
contract by
persons em-
ployed in the
supply of gas
or water.

§ IV.—OFFENCES.—Persons employed in the public supply of gas or water wilfully and maliciously breaking their contract of service, knowing, or having reasonable cause to believe, that the probable consequence of his so doing, either alone or in combination with

others will be to deprive a town or place of gas or water is liable on conviction to pay a penalty not exceeding £20, or to be imprisoned for any term not exceeding three months, with or without hard labour.

A printed copy of this section must be posted up in a conspicuous place at the gas-works or water-works, subject to a penalty, for not doing so, not exceeding £5 for every day during which such default continues.

Notice of the section to be posted up at the works.

A person injuring or defacing the notice is liable to a penalty not exceeding 40s.

Penalty for injuring or defacing notice.
Importance of written contracts for workmen under § 4.

An effort was made in the House to make written contracts compulsory in these instances, but failed. It will be well, however, for all workmen who are under contract, as defined by this section, to insist upon written contracts, especially as a breach of contract under this section is a "crime." And under no pretence should workmen, to whom this section applies, leave their work without giving the required notice. For nature of contract see chapter on the Employers and Workmen Act under the head of "Jurisdiction of the Act."

§V. Where any person wilfully and maliciously breaks a contract of service or of hiring, knowing, or having reasonable cause to believe, that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or cause serious bodily

Breach of contract involving injury to persons or property.

injury, or to expose valuable property, whether real or personal, to destruction or serious injury, he shall, on conviction thereof, be liable to pay a penalty not exceeding £20, or to be imprisoned for a term not exceeding three months, with or without hard labour.

"Maliciously,"
definition of,
under 24 & 25
Vic. cap. 97.

The word maliciously as here used, as well as in Section 4, applies "whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed or otherwise." Malicious Injury to Property Act, Section 58.

It is possible that this section will be interpreted to mean "a wrongful act, done intentionally, without just cause or excuse."

Application
of this section
to agricultural
labourers.

A fear has been expressed that a conviction of agricultural labourers and others may be obtained under this section from justices of the peace for a simple breach of contract as contemplated by the Employers and Workmen Act, but this would be a straining of the law, for to obtain a conviction it will be necessary to prove something more than a mere breach of contract as provided for in that Act.

The breach of contract must be wilfully and maliciously done, and the property destroyed or exposed to injury must be "valuable." The latter word, however, is not defined.

Appeal to the
higher courts.

In the event of a conviction which in any way appears to overstrain the words of this

section, it will be well to obtain such an interpretation of the law as will prevent its working an injustice.

The penalties in either case may be by fine or imprisonment; the maximum of the first is £20, of the latter three months. Penalties.

§ VI.—When a master, being legally liable to provide for his servant or apprentice necessary food, clothing, medical aid, or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, whereby the health of the servant or apprentice is, or is likely to be, seriously or permanently injured, he shall be liable either to pay a penalty not exceeding £20, or to be imprisoned for a term not exceeding six months, with or without hard labour. Penalty for neglect of a master to provide food, clothing, &c, for servants or apprentices.

The penalty in this case is higher than in either of the preceding sections.

By section 11 it is provided that “the respective parties to the contract of service, their husbands or wives, shall be deemed and considered as competent witnesses in prosecutions under Sections 4, 5, and 6.” Regulation as to evidence under § 4, 5, & 6.

This is very important, for in all other cases of a criminal prosecution the mouth of the prisoner is closed; here he can be examined on oath the same as in the Employers and Workmen Act.

§ VII.—“Every person who, with a view to compel any other person to abstain from doing Penalty for intimidation

or annoyance
by violence or
otherwise.

or to do any act which such other person has a legal right to do or abstain from doing, wrongfully, and without legal authority,—

1. Uses violence to or intimidates such other person, or his wife, or children, or injures his property; or,
2. Persistently follows such other person about from place to place; or,
3. Hides any tools, clothes, or other property owned or used by such other person, or deprives him of, or hinders him in, the use thereof; or,
4. Watches or besets the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place; or,
5. Follows such other person with two or more persons in a disorderly manner in or through any street or road,

shall, on conviction thereof by a Court of Summary Jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding £20, or to be imprisoned for a term not exceeding three months, with or without hard labour.

Saving clause
as to peaceful
picketing.

Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information, shall not be

deemed a watching or besetting within the meaning of this section."

This section is substituted for the repealed Criminal Law Amendment Act, 1871.

The section substituted for the Criminal Law Amendment Act, 1871.

The most important alteration made by this section consists in its general application. In every decision by the courts this will have to be considered, for it is applicable to all persons of whatever position.

The law general in its application.

Another considerable modification of the repealed statute is the power of the court to impose a fine in lieu of imprisonment, instead of imprisonment only.

Fine in lieu of imprisonment.

A third is giving the accused the right to object to be tried by Summary Jurisdiction, and to elect to be tried by jury. Section 9.

Right of trial by jury.

The alteration in the wording of the section is not great, the word "compel" is substituted for "coerce" in the first clause, and "molest" is expunged.

Peaceful picketing is no longer prohibited, for, although the Government refused expressly to legalise "peaceful persuasion," yet it was distinctly declared that it was legal under the Act. Moreover, the proviso at the end of the section gives all the necessary protection to peaceful picketing, unless justices overstrain the law, which is not now so likely to be done, seeing that the law is general.

Peaceful picketing not prohibited.

See Appendix B. Peaceful Picketing.

The Recorder's charge in the Cabinet-makers' case.

The assurance given by the Home Secretary that this section is an embodiment of the Recorder's charge, in the case of the Cabinet-makers, and the fact of his sending a copy of that charge with the Acts to every Magistrate and Judge, will, no doubt, prevent any flagrant oppression by the law. Meanwhile, all true friends to labour cannot but hope that workmen will generously accept the new law, and keep within its lines*.

§ 3, 4, 5, & 7 not confined to any class of workmen.

The four classes of offences given in Sections 3, 4, 5, and 7 are not confined to any particular class of workmen, for there is no such restriction to workmen of particular classes as specified in the Employers and Workmen Act. The Act does not, however, apply to seamen, or to apprentices to the sea service.

Reduction of penalties under other Acts.

§ VIII.—Power is given by this section to any court or justices having jurisdiction to reduce the penalties under any other Act, relating to employers and workmen, to not less than one-fourth the sum.

Power of offender under this Act to elect to be tried on indictment and not by a Court of Summary Jurisdiction.

§ IX to XI.—THE TRIBUNAL, AND MODE OF DECIDING CASES.—All offences under the Act may be dealt with on summary conviction, subject to the right of the defendants in each

* Should any unjust decision occur in the administration of this Act it will be well for the officers of societies to send full particulars to the Secretary of the Parliamentary Committee.

of the four classes of offences already mentioned to be tried by a jury. Conspiracy can only be tried by the Superior Criminal Courts, or, in certain cases, by Quarter Sessions.

The penalties in each case are given under each separate section.

The Court of Summary Jurisdiction for the purposes of this Act is constituted precisely as the Court of Summary Jurisdiction under the Employers and Workmen Act. See Tribunals in the chapter on the Employers and Workmen Act.

Constitution of Courts of Summary Jurisdiction.

The procedure will be by information laid before a magistrate, and a summons issued thereon. On refusal or neglect to appear on summons, a warrant may issue.

Procedure before a Court of Summary Jurisdiction.

WITNESSES.—Parties to the contract of service, and their husbands and wives, are competent witnesses, either on summary conviction or indictment, except in proceeding under Section 7.

Regulation as to witnesses.

OBJECTION BY DEFENDANT TO THE COURT.—The accused may, on appearing before the Court, object to being tried by summary jurisdiction; the offence may thereupon be prosecuted on indictment. In such cases the Court should inform the defendant that the law has given him that option.

The defendant may object to be tried by a Court of Summary Jurisdiction.

As the costs of the indictment are not allowed, the prosecutor should also be asked

Costs of prosecution to be paid by the prosecutor.

if he desires to prosecute. It is not improbable that these indictments will be of rare occurrence, as the prosecutor will not like to incur the costs and risk failure of conviction.

Appeal to
Quarter
Sessions.

§ XII.—Section 12 gives the right of appeal to Quarter Sessions against a conviction in England and Ireland (Scotland is provided for in another Act), with power to the Court of Appeal to confirm, reverse, or modify the decision of the Court of Summary Jurisdiction, or to remit the matter again to that court to be reheard.

Appeal to a
Superior
Court.

CASE FOR OPINION OF A SUPERIOR COURT.—A case may also be applied for and stated on any point of law arising on any information under the Act, for the opinion of the Superior Court; but not if the defendant elects to be tried by a jury.

Definitions
and saving
clause.

§ XIII to XVI.—Sections 13, 14, and 15 contain definitions, and Section 16 the saving clause.

Repeal
clauses of the
Act.

§ XVII.—Section 17 contains the repeal clauses of the Act, and certainly is not the least important part of the statute, for by this section all that is good in the Act is extended.

Application
of the Act to
Scotland and
Ireland.

§ XVIII to XXI.—The remaining Sections—18, 19, 20, and 21—extend the application of the Act to Scotland and Ireland, and give the necessary directions, modifications, and definitions.

CHAPTER III.

THE TRADE UNION ACTS, 1871 AND 1876.

[34 & 35 VICT. CH. 31] AND [39 & 40 VICT. CH. 22.]

INTRODUCTION.

§ I.—These Acts may be cited as “The Trade Union Acts, 1871 and 1876,” or separately as the “Trade Union Act, 1871,” and the “Trade Union Act Amendment Act, 1876.” The Act of 1871 is, by the first section of the amending Act, 1876, termed “the principal Act,” and it is provided that both Acts “shall be construed together as one Act.”

Construction and short title.

See Trade Union Act Amendment Act, 1876. s. 1.

DEFINITION OF A TRADE UNION.

In their essence trade unions are voluntary associations of workmen for mutual assistance in securing generally the most favourable conditions of labour; but the law of 1871 took a much more restricted view. This has been enlarged by the new definition of a trade union in the Amendment Act, 1876.

Definition as to Trade Union. Report of R.T.U.C., 1869.

The bodies to which the “Trade Union Acts, 1871 and 1876” apply are defined in section 16 of the amending Act as follows:—

Definition of a Trade Union by s. 16 of the Trade

Union Act
Amendment
Act, 1876, s.
16.

The term "trade union" means any combination, whether temporary or permanent, for regulating the relations between workmen and masters, or between workmen and workmen, or between masters and masters, or for imposing restrictive conditions on the conduct of any trade or business, whether such combination would or would not, if the principal Act had not been passed, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade. Provided that these Acts shall not affect certain agreements which may be shortly described as contracts of partnership, contracts of service, and contracts of sale or of apprenticeship.

See Trade
Union Act,
1871, s. 23.

Under the Act of 1871 it was essential, for a society to be registered under the Trade Union Act, that it should have been illegal but for the Act. This is no longer necessary, for by the new definition, section 16 of the Trade Union Amendment Act, 1876, a society can be registered as a trade union "whether such combination *would or would not*, if the principal Act had not been passed, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade."

See Trade
Union Act
Amendment
Act, 1876, s.
16.

Non-militant
trade unions.

This extends the provisions of the Trade Union Act, 1871, to such unions as are on the borderland of a trade union, and of a friendly

society respectively, and includes those unions which may not have any purposes in their rules which are in restraint of trade.

CRIMINAL PROVISIONS.

The above definition must be read in connection with sections 2 and 3, which declare that—

§ II.—The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful, so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise.

Trade Union
not criminal

§ III.—The purposes of any trade union shall not by reason merely that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust.

Trade Union
not unlawful
for civil pur-
poses.

REPEAL OF DISABILITIES CONSEQUENT ON THE DOCTRINE OF RESTRAINT OF TRADE.

Section 2 of this Act must now be read in connection with section 3 of the Conspiracy and Protection of Property Act, which legalises all acts done in furtherance of the combination or dispute, if the acts so done are not in themselves "crimes" if done by one person; see chapter 2, section 3. (Pages 22 and 23 ante.)

Conspiracy
and Protec-
tion of Property
Act, s. 3.

By section 3 combinations of workmen are no longer unlawful for being in restraint of trade, and the plea of restraint of trade will not

Doctrine of
restraint of
trade.

render void or voidable any agreement or trust, or enable an offender to avoid the penalties of the law for breach of agreement, or for debt, on the ground of its being illegal as being in restraint of trade.

ENFORCING OR RECOVERY OF DAMAGES.

Trade Union
contracts,
when not en-
forceable.

§ IV.—Members of trades unions are, either actually, or through their trustees in the case of a registered union, the joint owners of the property of such unions so long as they continue members. But being voluntary associations, when a man leaves his society, or refuses to be bound by its rules, he forfeits all claim to the property and funds, if its rules so provide. He cannot, by the express provisions of section 4 of the Act, be sued for contributions due, nor enforce payments due to him, for the Act provides that nothing contained in it shall enable any court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any agreement for the application of the funds to provide benefits to members.

Internal dis-
putes, suing
and being
sued.

This section thus prevents any interference on the part of courts of law with the internal organization or working of trade unions. If it were not for this section these unions might be constantly harassed by lawsuits, by suing and being sued, for contributions or arrears, or other payments supposed to be due. The wisest plan in all cases is to provide in the rules for

the appointment of arbitrators, and for reference of all disputes to arbitration, so that all claims may be adjusted on the one side and on the other without resorting to courts of law and costly litigation.

But, although agreements, fines, contributions, and other payments are not enforceable at law, none of the agreements mentioned in any of the sub-sections of section 4 are rendered unlawful.

Disputes between one society and another.

It is fortunate for trade unions generally that they keep their contracts both with regard to their own members, to non-members, and to each other, as unions. It is useless to speculate upon the possibility of such contracts being broken, and of litigation arising therefrom, because, in case of disputes arising, these unions have tribunals to which to refer such disputes other than courts of law, whose decision is uniformly accepted by both parties.

Arbitration better than courts of law.

FRIENDLY SOCIETIES AND OTHER ACTS NOT TO APPLY.

§ V.—This section declares that the Friendly Societies Acts, the Industrial and Provident Societies Acts, and the Companies Acts, 1862 and 1867 shall not apply to any trade union. Some of these Acts are manifestly inapplicable to such unions; in other cases some of the provisions are enacted in the Trade Union Acts. Trade unions by section 7 of the Trade Union Act Amendment Act, 1876, are now exempted from

Friendly Society Acts, Industrial Societies Acts, and the Companies Acts not to apply to trade unions.

Exemption from the provisions of the

Life Assurance Companies Act.

the provisions of the Life Assurance Companies Acts, and thus the difficulties and penalties with regard to the issue of policies and other matters are obviated.

Trade unions cannot be registered under the Friendly Societies Acts.

This section further declares that "the registration of any trade union under any of the said Acts shall be void." It is important that this should be borne in mind because by this section any society registered under the Friendly Societies Acts are void in law if they have any of the purposes of a trade union, within the meaning of this Act; and not only so, but the trustees are liable to prosecution if they apply any portion of their funds to any purposes other than the objects contemplated by the Friendly Societies Acts.

Deposit of rules no longer legal, and those deposited are cancelled.

The deposit of the rules of trade unions, under the Friendly Societies Acts, is no longer legal, and those which were formerly deposited before the passing of the Trade Union Act, 1871, have ceased to have any effect.

Trade unions not entitled to privileges of friendly societies.

It must also be clearly understood that registered trade unions are not entitled to any of the privileges of Friendly Societies other than those distinctly provided for in the Trade Union Acts, 1871 and 1876. Members of trade unions have now the right (under section 10 of the Trade Union Act Amendment Act, 1876) to nominate persons to whom money payable on death may be made. Any such nomination must be made in accordance with the above section, and it will be well for provision to be

Nomination of persons to whom payment is to be made in case of death.

made in the rules of all registered trade unions for all such nominations.

Section 2 of Trade Union Act Amendment Act, 1876, says "notwithstanding anything in section 5 of the principal Act contained, a trade union, whether registered or unregistered, which insures or pays money on the death of a child under ten years of age shall be deemed to be within the provisions of section 28 of the Friendly Societies Act, 1875." The attention of members of trade unions are particularly directed to this section because it applies, whether the union be registered or unregistered, to every trade union in the country which insures or pays money on the death of a child under ten years of age. The most important of these provisions are:—(1.) The limitation of payments on the death of a child under five years to six pounds, inclusive of payments by any other society; and of ten pounds for those under ten years of age. (2.) The parent of the child, or the personal representative of the parent, may alone receive payments on the death of any child under ten years of age. (3.) The particulars of the amount claimed, and the name of the society, are to be stated to the registrar of deaths on application for a certificate, the sum to be charged for such certificate is not to exceed one shilling. (4.) Registrars of deaths are not to give certificates unless the cause of death has been previously entered in the register of deaths on the certificate of a

Trade unions
to be within
s. 28 of the
Friendly
Societies Act,
1875.

Importance of
this section.
Principal pro-
visions of the
section stated.

coroner, or of the registered medical practitioner who attended such deceased child during its last illness. For the full text of section 28 of the Friendly Societies Act see Appendix F.

See Appendix F., s. 28, of the F.S. Act.

Separation of trade union funds.

It has been argued that the funds of trade unions should be separated into two distinct portions, so that in the one case the Friendly Societies Acts may apply, and in the other the Trade Union Acts. Apart from the difficulty of keeping two separate sets of books, and the inconvenience of having two sets of officers, which in many instances would have to be the case, there are other and stronger objections to this division of funds and benefits. The primary object of the trade union is the protection of the trade benefits, or interests; the other benefits are secondary, or incidental; whereas in the case of friendly societies, the latter is the only object, the first being completely ignored, and, in fact, contrary to law. This fact is not at all at variance with the oft-repeated statement that in most of the largest trade societies the greatest portion of the expenditure is always paid in sick and other benefits to their members. This is perfectly true, as their annual reports will show, but it is also true that it is not the primary object sought by these societies.

Objections thereto stated, and reasons given.

REGISTERED TRADE UNIONS.

Registry of trade unions

§ VI. provides for the registration of trade unions. Any seven or more members may

register a trade union under the Act by complying with its provisions with regard to registry, and by signing their names to the rules, "provided that if any one of the purposes of such trade union be unlawful such registration shall be void."

It is difficult to imagine that any purpose of a trade union can be unlawful under existing statutes so long as they adhere to the legitimate objects of a trade union. The rule to be laid down is simply to state the real and *bonâ fide* objects of such union in the rules about to be submitted to the Registrar, and never under any circumstances to keep any purposes out of the rules by compiling bye-laws which go beyond the rules. Bye-laws are often necessary for local purposes, but these should only deal with details as to management, local peculiarities as to trade customs and privileges, and similar questions. Attention to this rule will prevent difficulties arising after registration is effected.

Unlawful
purposes

Bye-laws.

POWER TO HOLD LAND.

§ VII.—Under this section trade unions are empowered to purchase and to hold land or houses in the names of the trustees for the time being, the land not to exceed one acre, and for the purposes of this section every branch or lodge of a trade union shall be considered a distinct union. In the case of a branch or lodge holding land or other estate, it must be vested in

Buildings for
trade unions
may be pur-
chased or
leased.

Branches
have power to
hold land.

the names of the trustees of such branch or lodge; but, if the rules so provide, these trustees may be the general trustees of the society if they are legally and properly elected and appointed to be such trustees. It is not necessary that each branch shall be registered as a distinct union, as some have supposed, but it is necessary that the rules shall be very clear in defining the mode of appointment and removal of such trustees, and their powers; and the powers of each and all of the branches to each other and their relation to the central board of the union.

TRUSTEES.

Property of
the trade
union to be
vested in
trustees.

§ VIII.—The eighth section of the principal Act declares that “All real and personal estate whatsoever, belonging to any trade union registered under this Act, shall be vested in the trustees for the time being of the trade union appointed as provided by this Act, for the use and benefit of such trade union and the members thereof.”

Property of
the branches
of a trade
union, as
amended by
the Act of
1876.

The section also provides that “the real or personal estate of any branch of a trade union shall be vested in the trustees of such branch;” and section 3 of the Trade Union Act Amendment Act, 1876, adds—“or of the trustees of the trade union, if the rules of the trade union so provide.” It is therefore competent for those unions which have branches or lodges, to provide in their rules that all the real or per-

sonal estate of the union shall be vested in the general trustees of the union, thereby securing the integrity of the union against dismemberment by the secession of branches, and at the same time prevent the division of the funds.

Trade unions have power to appoint general trustees for the whole of the Union.

It is scarcely necessary to add that this power of centralization should be exercised with great care, and, furthermore, that it should be clearly and distinctly stated in the rules so that every branch may know precisely its relationship to the central executive, and to the general trustees.

This section further declares that "all real and personal estate whatsoever belonging to any trade union registered under this Act" shall "be under the control of such trustees, their respective executors or administrators, according to their respective claims and interests;" "and in all actions or suits, or indictments, or summary proceedings before any court of summary jurisdiction, touching or concerning any such property, the same shall be stated to be the property of the person or persons for the time being holding the said office of trustee, in their proper names, as trustees of such trade union, without further description."

Responsibility and power of trustees.

Trustees, therefore, are the most responsible of all the officers of a trade union, and consequently it is of the utmost importance that proper provision be made in the rules of all trade unions with regard to the duties and powers of their trustees, the mode of

Attention must be paid as to mode of appointment and duties, in the rules.

their appointment, re-election, and removal, and also strictly defining their authority and jurisdiction. In every case, however, these rules must be strictly within the provisions of the Act.

In case of death or removal the property to vest in the succeeding trustees.

The same section also provides that "upon the death or removal of any such trustees, the same real and personal estate shall vest in the succeeding trustees for the same estate and interest as the former trustees had therein, and subject to the same trusts, without any conveyance or assignment whatsoever," "which shall be transferred into the names of such new trustees."

Provision in case of absence, &c., of trustee.
Trade Union Act, 1876, s. 4.

In this section of the principal Act "stocks and securities in the public funds of Great Britain and Ireland" were excepted from its provisions. This has now been remedied by section 4 of the Trade Union Act Amendment Act, 1876, under which section the transfer of stock belonging to the union, can be effected, in case of absence, &c., of the trustee in whose name the stock belonging to the union is standing. For the full text of this section see the Trade Union Act Amendment Act, 1876, section 4.

Trade Union Act, 1876, s. 4.

ACTIONS AT LAW, SUING AND BEING SUED.

Actions, &c., by or against trustees, &c.

§ IX. provides for the bringing of actions or prosecutions by or against registered trade unions. This may be done by the trustees or any other officer of such trade union who may

be authorized so to do by the rules thereof. The section is as follows :—

The trustees of any trade union registered under this Act, or any other officer of such trade union who may be authorized so to do by the rules thereof, are hereby empowered to bring or defend, or cause to be brought or defended, any action, suit, prosecution, or complaint in any court of law or equity, touching or concerning the property, right, or claim to property of the trade union ; and shall and may, in all cases concerning the real or personal property of such trade union, sue and be sued, plead and be impleaded, in any court of law or equity, in their proper names, without other description than the title of their office ; and no such action, suit, prosecution, or complaint shall be discontinued or shall abate by the death or removal from office of such persons or any of them, but the same shall and may be proceeded in by their successor or successors as if such death, resignation, or removal had not taken place ; and such successors shall pay or receive the like costs as if the action, suit, prosecution, or complaint had been commenced in their names for the benefit of or to be reimbursed from the funds of such trade union, and the summons to be issued to such trustee or other officer may be served by leaving the same at the registered office of the trade union.

The rules of the trade union registered Authority for

bringing or
defending ac-
tions to be ex-
pressed in the
rules.

under the Act should provide the necessary authority for bringing, or defending, actions brought by or against the union, and should define the powers and responsibilities of the several officers of such union. The rules should furthermore make provision for deciding as to what actions are to be brought or defended on behalf of the union, or in its name, so that the decision in all such cases shall be vested in the committee or board of management, for in the event of an action being brought in the proper form the court will presume that the necessary authority has been given. A bond or bill, payable to the trustees for the time being, must be sued on by the trustees when the action is brought, and not by the persons who were trustees when the bond or bill was made, if these are removed from office or have resigned.

LIABILITY OF TRUSTEES.

Limitation of
responsibility
of trustees.

§ X. declares that "a trustee of any trade union registered under this Act shall not be liable to make good any deficiency which may arise or happen in the funds of such trade union, but shall be liable only for the moneys which shall be actually received by him on account of such trade union."

Trustees are only held responsible for what they actually receive, and for their own acts and neglect, and not for those of any other

person with whom any trust fund may be deposited, nor for the deficiency of any securities, unless through their own wilful default.

Trustees are merely the depositaries of the money they receive, and are not made debtors to the union, so that if they are robbed of it, without fault on their part (in which case the onus of proof will lie with them), they are not liable to repay the amount. But they become liable for the loss of the funds or securities of the union if that loss occurs through their negligence, or through their failure to exercise due and reasonable care, and they are liable, like other officers under section 12, for wilfully withholding, or fraudulently misapplying, the effects of the union, or for wilfully applying them to purposes other than those expressed or directed in the rules.

Liability as to loss.

The rules of the union should, under the schedule of the Act, prescribe the mode of investment for their funds; they should also define the relative powers of the trustees and the committee or board of management, and also as to the mode of withdrawal of funds, as there is no express provision in the statute making trustees liable either as to investment or withdrawal of funds, except those given above, unless it be expressly provided for in the rules. The instrument of trust should expressly state the duties and responsibilities of the said trustees, and the authority by which the funds are to be withdrawn.

Mode of investment, &c., to be defined in the rules.

AUDIT AND ACCOUNTS.

Treasurers,
&c., to ac-
count.

§ XI. declares that "every treasurer or other officer of a trade union, registered under this Act, shall render to the trustees of the trade union, or to the members of such trade union, at a meeting of the trade union, a just and true account of all moneys received and paid by him since he last rendered the like account, and of the balance then remaining in his hands, and of all bonds or securities of such trade union, which account the said trustees shall cause to be audited by some fit and proper person or persons, by them to be appointed." The words of this section seem to imply that the auditors are to be appointed by the trustees. In any case it appears to be necessary that the auditors elected shall have the approval of the trustees, or they may appoint others whom they may deem fit and proper persons. Rule 5, in Schedule I., requires that the rules shall make provision "for an annual or periodical audit of accounts;" but, in addition to this, the trustees may require a special audit, if they deem it necessary, at a different time to that fixed by the rules.

Annual audit
required.

The treasurer,
if required, to
give up all
properties in
his custody.

The section further provides that the treasurer shall, if required to do so, forthwith hand over to the said trustees all moneys, securities, books, &c., in his hands or custody. On his failure to do so the trustees may sue such treasurer for the balance due from him, leaving

him to set off in such action the sums, if any, which he may have since paid on account of the said trade union. It further provides that the trustees shall be entitled to recover their full costs of the suit, to be taxed as between attorney and client.

SUMMARY PROCEEDINGS IN CASE OF FRAUD, OR WITHHOLDING MONEY OR PROPERTY OF THE TRADE UNION.

§ XII.—This section provides a summary mode of remedy against defaulting officers, members, and other persons. The words of the section are as follow :—

Punishment
for withhold-
ing money, &c.

If any officer, member, or other person being, or representing himself to be, a member of a trade union registered under this Act, or the nominee, executor, administrator, or assignee of a member thereof, or any person whatsoever, by false representation or imposition, obtain possession of any moneys, securities, books, papers, or other effects of such trade union, or, having the same in his possession, wilfully withhold or fraudulently misapply the same, or wilfully apply any part of the same to purposes other than those expressed or directed in the rules of such trade union, or any part thereof, the court of summary jurisdiction for the place in which the registered office of the trade union is situate [or the Court of Summary Jurisdiction for the place

Fraudulently
misapplying
or wilfully
withholding
the property
of the union.

See Trade
Union Act
Amendment
Act, 1876, s. 5.

where the offence has been committed] upon a complaint made by any person on behalf of such trade union, or by the Registrar, or in Scotland at the instance of the Procurator Fiscal of the court to which such complaint is competently made, or of the trade union, with his concurrence, may, by summary order, order such officer, member, or other person to deliver up all such moneys, securities, books, papers, or other effects, to the trade union, or to repay the amount of money applied improperly, and to pay, if the court think fit, a further sum of money not exceeding twenty pounds, together with costs not exceeding twenty shillings; and, in default of such delivery of effects, or repayment of such amount of money, or payment of such penalty and costs aforesaid, the said court may order the said person so convicted to be imprisoned, with or without hard labour, for any time not exceeding three months: Provided, that nothing herein contained shall prevent the said trade union, or in Scotland Her Majesty's Advocate from proceeding by indictment against the said party; provided also, that no person shall be proceeded against by indictment if a conviction shall have been previously obtained for the same offence under the provisions of this Act.

Order to deliver up the property of the union.

Order for imprisonment in default.

Proceeding by indictment.

Unlawful application of funds other than fraudulent.

It is most important that the words—"or wilfully apply any part of the same to purposes other than those expressed or directed in the

rules of such trade union, or any part thereof," should be clearly understood, and their meaning and application attended to in drafting or preparing rules for registration, inasmuch as under this section officers may be rendered liable for any application of the funds of the union to purposes other than those expressly provided for by the rules. For example, contributions, or loans, to another union, or votes of money to other associations, or moneys expended in demonstrations, bands of music, banners, &c., &c., will be held to be illegal, unless the rules contain provisions whereby such grants or expenditure may be lawfully made or expended.

The tribunal provided in the principal Act is "the Court of Summary Jurisdiction for the place in which the registered office of the trade union is situate."

Jurisdiction
in offences
Tribunal.

This has been amended by section 5 of the Trade Union Act Amendment Act, 1876, by the addition of the words,—“or by the Court of Summary Jurisdiction for the place where the offence has been committed.” Unnecessary expense will thus be avoided both as regards the complainant, and the defendant, and at the same time the ends of justice will be better served.

See the Trade
Union Act
Amendment
Act, 1876, s. 5.

A complaint may be made by any person on behalf of such trade union, or by the Registrar, or in Scotland at the instance of the Procurator Fiscal of the court to which such complaint is

Complainant.

Order to deliver up property, or to repay the amount.

Order for fine and costs.

Imprisonment in default.

Proceeding by indictment.

competently made, or of the trade union, by his concurrence. The court "may, by summary order, order such officer, member, or other person to deliver up all such moneys, securities, books, papers and other effects of the trade union, or to repay the amount of money applied improperly, and to pay, if the court thinks fit, a further sum of money not exceeding twenty pounds, together with costs not exceeding twenty shillings." So far the defendant is dealt with as in a civil action, and he may avoid criminal proceedings by obeying the order of the court. If the defendant refuse to obey the order of the court the section further provides that—"In default of such delivery of effects, or repayment of such amount of money, or payment of such penalty and costs aforesaid, the said court may order the said person so convicted to be imprisoned, with or without hard labour, for any term not exceeding three months."

The section further provides that nothing therein contained shall prevent the said trade union, or in Scotland Her Majesty's Advocate, from proceeding by indictment, but no person can be proceeded against by indictment if a conviction shall have been previously obtained for the same offence under the provisions of this Act.

REGISTRY OF TRADE UNION.

§ XIII. provides that in registering a trade union, and the rules thereof, under this Act, the following provisions shall have effect:—

- (1.) The application to register the trade union shall be sent to the Registrar, together with printed copies of the rules, and a list of the titles and names of the officers : Regulations for registry.
Name of union, copies of rules, and list and names of officers.
- (2.) The Registrar, upon being satisfied that the trade union has complied with the regulations respecting registry in force under this Act, shall register such trade union and such rules : Trade union to be registered on complying with regulations as to registry.
- (3.) No trade union shall be registered under a name identical with that by which any other existing trade union has been registered, or so nearly resembling such name as to be likely to deceive the members or the public. See rules of the Home Secretary, dated 8th of December, 1871. The following is the rule as to registry of name issued by the Home Office in December, 1871 :—“ The Registrar shall not register a trade union under a name identical with that of any other existing trade union known to him, whether registered or not registered, or so nearly resembling Regulations as to similarity of name.
Rules of Home Secretary, 1871.

such name as to be likely to deceive the members or the public."

- (4.) Where a trade union applying to be registered has been in operation for more than a year before the date of such application, there shall be delivered to the Registrar before the registry thereof a general statement of the receipts, funds, effects, and expenditure of such trade union in the same form, and showing the same particulars as if it were the annual general statement required as hereinafter mentioned to be transmitted annually to the Registrar :

- (5.) The Registrar upon registering such trade union shall issue a certificate of registry, which certificate, unless proved to have been withdrawn or cancelled, shall be conclusive evidence that the regulations of this Act, with respect to registry, have been complied with :

- (6.) One of Her Majesty's Principal Secretaries of State may from time to time make regulations respecting registry under this Act, and respecting the seal (if any) to be used for the purpose of such registry, and the forms to be used for such registry, and the inspection of documents kept by the Registrar under this Act, and respect-

Regulations
as to unions
which have
been in exist-
ence more
than a year as
to statements
of accounts.

Certificate of
registry.

Power of Sec-
retary of State
to make and
issue rules.

ing the fees, if any, to be paid on registry, not exceeding the fees specified in the second schedule to this Act, and generally for carrying this Act into effect.

Considerable doubt existed as to whether those unions which had branches in England, Scotland, and Ireland, should be registered in each of those countries; this has been set at rest by section 6 of the Trade Union Act Amendment Act, 1876, as follows:—

Registry of unions doing business in more than one country.

“Trade unions carrying or intending to carry on business in more than one country shall be registered in the country in which their registered office is situate; but copies of the rules of such unions, and of all amendments of the same, shall, when registered, be sent to the registrar of each of the other countries.” For the full text of this section, see Trade Union Act Amendment Act, 1876, section 6.

Trade Union Act Amendment Act, 1876, s. 6.

No provision existed in the Act of 1871 for the withdrawal or cancelling of certificate of registration; this has been provided for by section 8 of the Act of 1876, in the following cases:—

Withdrawal or cancelling of certificate.

“(1.) At the request of the trade union to be evidenced in such manner as the chief or assistant registrar shall from time to time direct. (2.) On proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that the registration

Trade Union Act Amendment Act, 1876, s. 8.

of the trade union has become void under section 6 of the Trade Union Act, 1876, or that such trade union has wilfully and after notice from a registrar whom it may concern, violated any of the provisions of the Trade Union Acts, or has ceased to exist." But in no case can the certificate of registration be withdrawn or cancelled except by the chief or assistant registrars. See Trade Union Act Amendment Act, 1876, section 8.

The following additional provisions are enacted by the Trade Union Act Amendment Act, 1876:—

Membership
of minors. Trade Union
Act Amend-
ment Act,
1876, s. 9.

(1.) A person under the age of twenty-one, but above the age of sixteen, may be a member of a trade union, and enjoy all the rights of a member, and execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the committee of management, trustee, or treasurer of the trade union.

Change of
name. Trade
Union Act
Amendment
Act, 1876, s.
11.

(2.) A trade union may, with the approval in writing of the chief or assistant registrars, change its name by the consent of not less than two-thirds of the total number of members. But the change of name shall not affect any right or obligation of the trade union, or of any member thereof.

Amalgama-

(3.) Any two or more trade unions may, by

the consent of not less than two-thirds of the members of each or every such trade union, become amalgamated together as one trade union, with or without any dissolution or division of the funds of such trade unions, or either or any of of them; but no amalgamation shall prejudice any right of a creditor of either or any union party thereto.

tion of two or more trade unions.
Trade Union Act Amendment Act, s. 12.

- (4.) Notice in writing of every change of name or amalgamation signed by seven members, and countersigned by the secretary, accompanied by a statutory declaration by such secretary that the provisions of the Act have been complied with, must be sent to the chief registrar. In the case of amalgamations seven members and the secretary of each and every union party thereto must sign the notice.

Registration of changes of names and amalgamations.
Trade Union Act Amendment Act, 1876, s. 13.

- (5.) The rules of every trade union shall provide for the manner of dissolving the same, and notice of every dissolution of a trade union under the hand of the secretary and seven members of the same, shall be sent within fourteen days thereafter to the office of the chief registrar, or, in the case of unions doing business exclusively in Scotland or Ireland to the assistant

Dissolution of a trade union.
Trade Union Act Amendment Act, 1876, s. 14.

registrar for Scotland or Ireland respectively. The absence of a provision for dissolution in the rules of unions already registered does not invalidate their registration.

Penalty for failure to give notice.
Trade Union Act Amendment Act, 1876, s. 15.

- (6.) A trade union which fails to give any notice or send any document which it is required by the Act to give or send, is liable to a penalty of not less than one pound and not more than five pounds, and to an additional penalty of the like amount for each week during which the omission continues. These penalties can be recovered from every officer or other person, whose duty it is, by the rules of the union, to give or send such document, or if there be no such officer or other appointed person, then every member of the committee of management is liable unless proved to have been ignorant of, or attempted to prevent the omission to give or send the same.

For the full text of these provisions see the Trade Union Act Amendment Act, 1876, sections 9, 11, 12, 13, 14, and 15.

Rules of registered trade unions.

§ XIV.—With respect to the rules of a trade union registered under this Act, the following provisions shall have effect:—

Compulsory provisions.

- (1.) The rules of every such trade union shall contain provisions in respect of

the several matters mentioned in the first schedule to this Act :

- (2.) A copy of the rules shall be delivered by the trade union to every person on demand on payment of a sum not exceeding one shilling.

Every person to have a copy of the rules on payment for the same.

The following are the order and words of the schedule :—

Of Matters to be provided for by the Rules of Trade Unions Registered under this Act.

Provisions of Schedule 1.

1. The name of the trade union and place of meeting for the business of the trade union.
2. The whole of the objects for which the trade union is to be established, the purposes for which the funds thereof shall be applicable, and the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member of such trade union.
3. The manner of making, altering, amending, and rescinding rules.
4. A provision for the appointment and removal of a general committee of management, of a trustee or trustees, treasurer, and other officers.
5. A provision for the investment of the funds, and for an annual or periodical audit of accounts.

Name and place of meeting.

Objects of the trade union, purposes for which funds are applicable, conditions as to benefit and fines, &c.

Manner of making, altering, and rescinding rules.

Appointment and removal of officers and trustees.

Investment of funds and audit of accounts.

Inspection of books, list of members, &c.

6. The inspection of the books and names of the members of the trade union by every person having an interest in the funds of the trade union.

The fact of registration is no proof that the rules are legal.

Each and every matter contained in these provisions must be attended to in drafting or preparing rules for registration, lest the omission thereof should render void the registration of such trade union. It must also be clearly understood that, as the Registrar is not bound to see that the rules are in general conformity with law, the fact of registration is no proof that any particular rule, outside of the provisions required by the schedule, is legal.

Registered office of trade unions.

§ XV.—Every trade union registered under this Act shall have a registered office to which all communications and notices may be addressed; if any trade union under this Act is in operation for seven days without having such an office, such trade union and every officer thereof shall each incur a penalty not exceeding five pounds for every day during which it is so in operation.

Notice of situation of such office, and any change to be given to the Registrar.

Notice of the situation of such registered office, and of any change therein, shall be given to the Registrar and recorded by him; until such notice is given the trade union shall not be deemed to have complied with the provisions of this Act.

ANNUAL RETURNS TO BE SENT TO THE REGISTRAR.

Annual returns to be

§ XVI.—A general statement of the receipts, funds, effects, and expenditure of every trade

union registered under this Act, shall be transmitted to the Registrar before the first day of June in every year, and shall show fully assets and liabilities at the date, and the receipts and expenditure during the year preceding the date to which it is made out, of the trade union; and shall show separately the expenditure in respect of the several objects of the trade union, and shall be prepared and made out up to such date, in such form, and shall comprise such particulars, as the Registrar may from time to time require; and every member of, and depositor in, any such trade union shall be entitled to receive, on application to the treasurer or secretary of that trade union, a copy of such general statement, without making any payment for the same.

prepared as Registrar may direct.

Receipts and expenditure.

Balance sheet, every member entitled to a copy.

Together with such general statement there shall be sent to the Registrar a copy of all alterations of rules and new rules and changes of officers made by the trade union during the year preceding the date up to which the general statement is made out, and a copy of the rules of the trade union as they exist at that date.

Alterations of rules, new rules, change of officers, &c., to be sent to the Registrar.

Every trade union which fails to comply with or acts in contravention of this section, and also every officer of the trade union so failing, shall each be liable to a penalty not exceeding five pounds for each offence.

Penalty for non-compliance with this section.

Every person who wilfully makes or orders to be made any false entry in or any omission from any such general statement, or in or from

Penalty for false entries in, or wilful omissions

from, such
general state-
ment.

the return of such copies of rules or alterations of rules, shall be liable to a penalty not exceeding fifty pounds for each offence.

Registrars.

§ XVII.—“The registrars of the friendly societies in England, Scotland, and Ireland shall be the registrars under this Act.

Annual re-
ports.

“The registrars shall lay before Parliament annual reports with respect to the matters transacted by such registrars in pursuance of this Act.”

Circulation
of false copies
of rules, &c.,
a misdemea-
nour.

§ XVIII.—“If any person with intent to mislead or defraud gives to any member of a trade union registered under this Act, or to any person intending or applying to become a member of such trade union, a copy of any rules or of any alterations or amendments of the same other than those respectively which exist for the time being, on the pretence that the same are the existing rules of such trade union, or that there are no other rules of such trade union, or if any person with the intent aforesaid gives a copy of any rules to any person on the pretence that such rules are the rules of a trade union registered under this Act which is not so registered, every person so offending shall be deemed guilty of a misdemeanour,” and in Scotland, of “a crime and offence,” section 23.

In Scotland a
crime and
offence.

LEGAL PROCEEDINGS.

Summary
proceedings
for offences,

§ XIX.—By this section it is provided that “in England and Ireland, all offences and

penalties under this Act may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts;" under which Acts also, "summary orders may be made and enforced on complaint before a court of summary jurisdiction.

penalties, &c.,
in England
and Ireland'.

"In Scotland all offences and penalties under this Act shall be prosecuted and recovered by the Procurator Fiscal of the county in the Sheriff Court, under the provisions of the Summary Procedure Act, 1864.

In Scotland.

"In Scotland summary orders under this Act may be made and enforced on complaint in the Sheriff Court."

The constitution of the courts is provided for in the several clauses of the first sub-section of section 19, which need not be here repeated.

Constitution
of the courts.

It is not required by the Act that the information shall be stated in writing; but it is "provided that in England, Scotland, and Ireland—

2. The description of any offence under this Act in the words of such Act shall be sufficient in law.
3. Any exception, exemption, proviso, excuse, or qualification, whether it does or not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information, and if so specified or negatived, no proof in relation to the matter so specified or nega-

Description of
offence.

Power of de-
fendant to
plead exemp-
tion or ex-
cuse.

tived shall be required on the part of the informant or prosecutor."

Complaint to be made with-
in six months.

Every information or complaint, whether in England, Ireland, or Scotland, must be laid or made within six calendar months from the time when the matter arose.

Particulars of the offence.

It is not necessary to set forth the sections of the statute further than is necessary to describe the offence. By the Summary Procedure Act the complaint must be in a form prescribed by the Act; which also requires that the particulars of the offence shall be set forth in the complaint, and also the nature of the forfeiture or penalty, and the alternative.

APPEALS TO QUARTER SESSIONS.

Appeal to quarter sessions

§ XX.—In England or Ireland, if any party feels aggrieved by any order or conviction made by a court of summary jurisdiction on determining any complaint or information under this Act, the party so aggrieved may appeal therefrom, subject to the conditions and regulations following:—

Regulations as to appeal, — where cause of appeal has arisen.

(1.) The appeal shall be made to some court of general or quarter sessions for the county or place in which the cause of appeal has arisen, holden not less than fifteen days and not more than four months after the decision of the court from which the appeal is made.

Notice of appeal to be given to the other party.

(2.) The appellant shall, within seven days after the cause of appeal has arisen,

give notice to the other party and to the court of summary jurisdiction of his intention to appeal, and of the ground thereof.

The Act of 12 & 13 Vict. cap. 45 requires that the notice of appeal shall be in writing, signed by the person or persons giving the same, or by his or their attorney in his behalf. Section 1.

Notice to be in writing.

It also excludes the appellant at the trial from going into or giving evidence of any other ground of appeal than those set forth in his notice. Section 1.

Fresh evidence not admissible.

The court of general or quarter sessions may, if it think fit, award costs incurred in consequence of such notice having been given, against the party giving it, although such appeal should not afterwards have been prosecuted or entered. Section 6.

Costs may be awarded if appeal not carried through.

The same Act contains provisions with regard to defects in the mode of setting forth the grounds of appeal and the amendment thereof, and frivolous or vexatious grounds of appeal. Sections 3, 4, and 9. These provisions should be carefully attended to by the solicitor who has charge of the case.

Defective and vexatious grounds of appeal.

(3.) The appellant shall immediately after such notice enter into a recognisance before a justice of the peace in the sum of ten pounds, with two sufficient sureties in the sum of ten pounds, conditioned personally to try

Recognisances and sureties.

such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court:

Release from custody.

(4.) Where the appellant is in custody the justice may, if he think fit, on the appellant entering into such recognisance as aforesaid, release him from custody:

Adjournment of appeal, and power to cause the case to be re-heard by the court of summary jurisdiction.

(5.) The court of appeal may adjourn the appeal, and upon the hearing thereof they may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter to the court of summary jurisdiction with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just, and if the matter be remitted to the court of summary jurisdiction the said last-mentioned court shall thereupon re-hear and decide the information or complaint in accordance with the opinion of the said court of appeal. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just.

Order as to costs.

Costs so awarded must, by the terms of the order, be made payable within a time specified to the Clerk of the Peace, to be by him paid to the party entitled thereto. 11 and 12 Vict., cap. 43, section 27, by which also the mode of

recovering such costs is prescribed. See also section 5 of the same Act.

APPEALS ON QUESTIONS OF LAW TO SUPERIOR COURTS.

In England and Ireland, if a question of law be involved, a decision of the Court of Quarter Sessions may be brought under review of the Court of Queen's Bench. An appeal may also be made on points of law in the form of a special case stated by the justices, on the application of either party, for the opinion of the superior court of common law. The application must be made in writing within three days after the determination of the justices or magistrate. The appellant must enter into a recognisance to prosecute the appeal without delay, to submit to the judgment of the court, and to pay the costs. The court to which the case is transmitted shall hear and determine the questions of law arising thereon, and thereupon shall reverse, affirm, or amend the determination of the justices or magistrates, or remit to them with its opinion, and it may make such other order, or such order as to costs, as it thinks fit, such orders being final and conclusive.

Case for the superior courts.

Special case
20 & 21 Vict.
cap. 43,
sections 1 & 2.

20 & 21 Vict.
cap. 43, s. 6.

An appeal in the form of a special case stated by the justices may be applied for in the first instance before the court of summary jurisdiction; but in that case the person so appealing is taken to have abandoned his right to appeal

20 & 21 Vict.
cap. 43, s. 14.

to Quarter Sessions. 20 and 21 Vict., cap. 43, section 14.

APPEAL FROM SHERIFF IN SCOTLAND.

Appeal in
Scotland as
prescribed by
20 Geo. II.,
cap. 43.

Enforcement
of penalties,
Scotland.

Special case,
Scotland—
civil suit.

§ XXI.—This section provides that “in Scotland it shall be competent to any person to appeal against any order or conviction under this Act to the next Circuit Court of Justiciary, or where there are no circuit courts to the High Court of Justiciary at Edinburgh” under the Act 20 of George II., cap. 43. “All penalties imposed under the provisions of this Act in Scotland may be enforced in default of payment by imprisonment for a term to be specified in the summons or complaint, but not exceeding three calendar months.”

In Scotland there is no mode of appealing by stating a special case on points of law for the opinion of the supreme courts. In a civil suit, if both parties are agreed upon the facts, and dispute only as to the law applicable thereto, they may, without raising any action or proceeding, or at any stage of an action or proceeding, present a special case to either division of the court of session for its opinion, and, if desired, its judgment; but the concurrence of both parties is required, and the terms of the case must be adjusted by the parties themselves, and be signed by their counsel.

In Scotland, the term “misdemeanour,” when it occurs in the Act, means a crime and offence. Section 23.

DISQUALIFICATION OF PERSONS TO ACT AS JUDGES OR MAGISTRATES.

§ XXII.—A person who is a master, or father, son, or brother of a master, in the particular manufacture, trade, or business in or in connection with which any offence under this Act is charged to have been committed shall not act as or as a member of a court of summary jurisdiction or appeal for the purposes of this Act.

Interested parties not to act as members of Court of Appeal, or of the Court of Summary Jurisdiction.

This section applies equally to justices of the peace, magistrates, Scotch sheriffs, lords of justiciary, and to judges upon appeal.

DEFINITIONS AND SAVING CLAUSE.

§ XXIII.—This section gives “definitions as to the term Summary Jurisdiction Acts;” and “as to trade unions.” As these definitions have been embodied in the earlier portions of this chapter, it is unnecessary to repeat them here.

Definitions.

In the saving clause it is “provided that this Act shall not affect—

1. Any agreement between partners as to their own business;
2. Any agreement between an employer and those employed by him as to such employment;
3. Any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.”

Saving clause as to “agreements.”

The general principles on which these rules rest, are the same throughout the United Kingdom.

REPEAL.

Repeal clause.

§ XXIV.—By this section the temporary Act for the Protection of the Funds of Trades Unions, passed in 1869, is repealed.

SCHEDULES.

Schedule as to rules.

The first schedule contains the “matters to be provided for by the rules of trade unions registered under this Act;” these have been given under section 14,—which see.

Schedule as to fees.

The second schedule contains the “maximum fees ” to be charged.

	£	s.	d.
For registering trade union	1	0	0
For registering alterations in rules	0	10	0
For inspection of documents	0	2	6

CHAPTER IV.

EMPLOYERS AND WORKMEN.

[38 & 39 VICT., CH. 90.]

ARRANGEMENT OF CLAUSES.

A.D. 1875.

Preliminary.

Clauses.

1. Short title.
2. Commencement of Act.

PART I.

Jurisdiction—Jurisdiction of County Court.

3. Power of county court as to ordering of payment of money, set-off, and rescission of contract, and taking security.

Court of Summary Jurisdiction.

4. Jurisdiction of justices in disputes between employers and workmen.
5. Jurisdiction of justices in disputes between masters and apprentices.
6. Powers of justices in respect of apprentices.
7. Order against surety of apprentice, and power to friend of apprentice to give security.

PART II.

Procedure.

8. Mode of giving security.
9. Summary proceedings.

A.D. 1875

PART III.

*Definitions and Miscellaneous.**Definitions.*

10. Definition: "Workman:" "The Summary Jurisdiction Act."
11. Set-off in case of factory workers.

Application.

12. Application to apprentices.

Saving Clause.

13. Saving of special jurisdiction, and seamen.

PART IV.

Application of Act to Scotland.

14. Application to Scotland. Definitions.

PART V.

Application of Act to Ireland.

15. Application to Ireland.

CHAPTER 90.

An Act to enlarge the powers of County Courts in respect of disputes between Employers and Workmen, and to give other Courts a limited civil jurisdiction in respect of such disputes. [13th August, 1875.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

I. This Act may be cited as the Employers and Workmen Act, 1875.

Commence-
ment of Act.

II. This Act, except so far as it authorises any rules to be made or other thing to be done at any time after the passing of this Act, shall come into operation on the first day of September one thousand eight hundred and seventy-five.

PART I.

A.D. 1876.

Jurisdiction—Jurisdiction of County Court.

III. In any proceeding before a county court in relation to any dispute between an employer and a workman arising out of or incidental to their relation as such (which dispute is herein-after referred to as a dispute under this Act) the court may, in addition to any jurisdiction it might have exercised if this Act had not passed, exercise all or any of the following powers; that is to say,

Power of
county court
as to ordering
of payment of
money, set-off,
and rescission
of contract
and taking
security.

- (1.) It may adjust and set-off the one against the other all such claims on the part either of the employer or of the workman, arising out of or incidental to the relation between them, as the court may find to be subsisting, whether such claims are liquidated or unliquidated, and are for wages, damages, or otherwise; and,
- (2.) If, having regard to all the circumstances of the case, it thinks it just to do so, it may rescind any contract between the employer and the workman upon such terms as to the apportionment of wages or other sums due thereunder, and as to the payment of wages or, damages, or other sums due, as it thinks just; and,
- (3.) Where the court might otherwise award damages for any breach of contract it may, if the defendant be willing to give security to the satisfaction of the court for the performance by him of so much of his contract as remains unperformed, with the consent of the plaintiff, accept such security, and order performance of the contract accordingly, in place either of the whole of the damages which would otherwise have been awarded, or some part of such damages.

The security shall be an undertaking by the defendant and one or more surety or sureties that the defendant will perform his contract, subject on non-performance to the payment of a sum to be specified in the undertaking.

Any sum paid by a surety on behalf of a defendant in

A.D. 1875.

respect of a security under this Act, together with all costs incurred by such surety in respect of such security, shall be deemed to be a debt due to him from the defendant; and where such security has been given in or under the direction of a court of summary jurisdiction, that court may order payment to the surety of the sum which has so become due to him from the defendant.

Court of Summary Jurisdiction.

Jurisdiction
of justices in
disputes
between em-
ployers and
workmen.

IV. A dispute under this Act between an employer and a workman may be heard and determined by a court of summary jurisdiction, and such court, for the purposes of this Act, shall be deemed to be a court of civil jurisdiction, and in a proceeding in relation to any such dispute the court may order payment of any sum which it may find to be due as wages, or damages, or otherwise, and may exercise all or any of the powers by this Act conferred on a county court: Provided that in any proceeding in relation to any such dispute the court of summary jurisdiction—

- (1.) Shall not exercise any jurisdiction where the amount claimed exceeds ten pounds; and
- (2.) Shall not make an order for the payment of any sum exceeding ten pounds, exclusive of the costs incurred in the case, and
- (3.) Shall not require security to an amount exceeding ten pounds from any defendant or his surety or sureties.

Jurisdiction
of justices in
disputes be-
tween masters
and appren-
tices.

V. Any dispute between an apprentice to whom this Act applies and his master, arising out of or incidental to their relation as such, (which dispute is herein-after referred to as a dispute under this Act,) may be heard and determined by a court of summary jurisdiction.

Powers of
justices in
respect of
apprentices.

VI. In a proceeding before a court of summary jurisdiction in relation to a dispute under this Act between a master and an apprentice, the court shall have the same powers as if the dispute were between an employer and a workman, and the master were the employer and the apprentice the workman, and the instrument of apprenticeship a contract between

an employer and a workman, and shall also have the following powers:

A.D. 1875.

- (1.) It may make an order directing the apprentice to perform his duties under the apprenticeship; and,
- (2.) If it rescinds the instrument of apprenticeship it may, if it thinks it just so to do, order the whole or any part of the premium paid on the binding of the apprentice to be repaid.

Where an order is made directing an apprentice to perform his duties under the apprenticeship, the court may, from time to time, if satisfied after the expiration of not less than one month from the date of the order that the apprentice has failed to comply therewith, order him to be imprisoned for a period not exceeding fourteen days.

VII. In a proceeding before a court of summary jurisdiction in relation to a dispute under this Act between a master and an apprentice, if there is any person liable, under the instrument of apprenticeship, for the good conduct of the apprentice, that person may, if the court so direct, be summoned in like manner as if he were the defendant in such proceeding to attend on the hearing of the proceeding, and the court may, in addition to or in substitution for any order which the court is authorised to make against the apprentice, order the person so summoned to pay damages for any breach of the contract of apprenticeship to an amount not exceeding the limit (if any) to which he is liable under the instrument of apprenticeship.

Orders
against surety
of apprentice,
and power to
friend of
apprentice to
give security.

The court may, if the person so summoned, or any other person, is willing to give security to the satisfaction of the court for the performance by the apprentice of his contract of apprenticeship, accept such security instead of or in mitigation of any punishment which it is authorised to inflict upon the apprentice.

PART II.

Procedure.

VIII. A person may give security under this Act in a county court or court of summary jurisdiction by an oral or written acknowledgment in or under the direction of the court

Mode of
giving secu-
rity.

A.D. 1875. — of the undertaking or condition by which and the sum for which he is bound, in such manner and form as may be prescribed by any rule for the time being in force, and in any case where security is so given, the court in or under the direction of which it is given may order payment of any sum which may become due in pursuance of such security.

The Lord Chancellor may at any time after the passing of this Act, and from time to time make, and when made, rescind, alter, and add to, rules with respect to giving security under this Act.

Summary
proceedings.

IX. Any dispute or matter in respect of which jurisdiction is given by this Act to a court of summary jurisdiction shall be deemed to be a matter on which that court has authority by law to make an order on complaint in pursuance of the Summary Jurisdiction Act, but shall not be deemed to be a criminal proceeding; and all powers by this Act conferred on a court of summary jurisdiction shall be deemed to be in addition to and not in derogation of any powers conferred on it by the Summary Jurisdiction Act, except that a warrant shall not be issued under that Act for apprehending any person other than an apprentice for failing to appear to answer a complaint in any proceeding under this Act, and that an order made by a court of summary jurisdiction under this Act for the payment of any money shall not be enforced by imprisonment except in the manner and under the conditions by this Act provided; and no goods or chattels shall be taken under a distress ordered by a court of summary jurisdiction which might not be taken under an execution issued by a county court.

A court of summary jurisdiction may direct any sum of money, for the payment of which it makes an order under this Act, to be paid by instalments, and may from time to time rescind or vary such order.

Any sum payable by any person under the order of a court of summary jurisdiction in pursuance of this Act, shall be deemed to be a debt due from him in pursuance of a judgment of a competent court within the meaning of the fifth section of the Debtors Act, 1869, and may be enforced accordingly; and as regards any such debt a court of summary jurisdiction

shall be deemed to be a court within the meaning of the said section. A.D. 1875.

The Lord Chancellor may at any time after the passing of this Act, and from time to time make, and when made, rescind, alter, and add to, rules for carrying into effect the jurisdiction by this Act given to a court of summary jurisdiction, and in particular for the purpose of regulating the cost of any proceedings in a court of summary jurisdiction, with power to provide that the same shall not exceed the costs which would in a similar case be incurred in a county court, and any rules so made in so far as they relate to the exercise of jurisdiction under the said fifth section of the Debtors Act, 1869, shall be deemed to be prescribed rules within the meaning of the said section.

PART III.

Definitions and Miscellaneous.

Definitions.

X. In this Act—

The expression "workman" does not include a domestic or menial servant, but save as aforesaid, means any person who, being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner, or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into or works under a contract with an employer, whether the contract be made before or after the passing of this Act, be express or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour.

Definitions:
"Workman."

The expression "the Summary Jurisdiction Act" means the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of Justices of the Peace out of sessions within England and Wales with respect to summary convictions and orders," inclusive of any Acts amending the same.

"The Summary Jurisdiction Act."

The expression "court of summary jurisdiction" means—

- (1.) As respects the city of London, the Lord Mayor or any alderman of the said city sitting at the Mansion House or Guildhall justice room; and

A.D. 1875.

- (2.) As respects any police court division in the metropolitan police district, any metropolitan police magistrate sitting at the police court for that division; and
- (3.) As respects any city, town, liberty, borough, place, or district for which a stipendiary magistrate is for the time being acting, such stipendiary magistrate sitting at a police court or other place appointed in that behalf; and
- (4.) Elsewhere any justice or justices of the peace to whom jurisdiction is given by the Summary Jurisdiction Act: Provided that as respects any case within the cognizance of such justice or justices as last aforesaid, a complaint under this Act shall be heard and determined and an order for imprisonment made by two or more justices of the peace in petty sessions sitting at some place appointed for holding petty sessions.

Nothing in this section contained shall restrict the jurisdiction of the Lord Mayor or any alderman of the city of London, or of any metropolitan police or stipendiary magistrate in respect of any act or jurisdiction which may now be done or exercised by him out of court.

Set-off in case
of factory
workers.

XI. In the case of a child, young person, or woman subject to the provisions of the Factory Acts, 1833 to 1874, any forfeiture on the ground of absence or leaving work shall not be deducted from or set-off against a claim for wages or other sum due for work done before such absence or leaving work, except to the amount of the damage (if any) which the employer may have sustained by reason of such absence or leaving work.

Application.

Application
to apprentices

XII. This Act in so far as it relates to apprentices shall apply only to an apprentice to the business of a workman as defined by this Act upon whose binding either no premium is paid, or the premium (if any) paid does not exceed twenty-five pounds, and to an apprentice bound under the provisions of the Acts relating to the relief of the poor.

Saving Clause.

A.D. 1876.

XIII. Nothing in this Act shall take away or abridge any local or special jurisdiction touching apprentices.

Saving of
special juris-
diction, and
seamen.

This Act shall not apply to seamen or to apprentices to the sea service.

PART IV.

Application of Act to Scotland.

XIV. This Act shall extend to Scotland, with the modifications following; that is to say,

Application
to Scotland.

In this Act with respect to Scotland—

Definitions.

The expression "county court" means the ordinary sheriff court of the county:

The expression "the court of summary jurisdiction" means the small debt court of the sheriff of the county:

The expression "sheriff" includes sheriff substitute:

The expression "instrument of apprenticeship" means indenture:

The expression "plaintiff" or "complainant" means pursuer or complainer:

The expression "defendant" includes defender or respondent:

The expression "the Summary Jurisdiction Act" means the Act of the seventh year of the reign of His Majesty King William the Fourth and the first year of the reign of Her present Majesty, chapter forty-one, intituled "An Act for the more effectual recovery of small debts in the Sheriff Courts, and for regulating the establishment of circuit courts for the trial of small debt causes by the sheriffs in Scotland," and the Acts amending the same.

The expression "surety" means cautioner:

This Act shall be read and construed, as if for the expression "the Lord Chancellor," wherever it occurs therein, the expression "the Court of Session by act of sederunt" were substituted.

All jurisdictions, powers, and authorities necessary for the purposes of this Act are hereby conferred on sheriffs in their

A.D. 1873.

ordinary or small debt courts, as the case may be, who shall have full power to make any order on any summons, petition, complaint, or other proceeding under this Act, that any county court or court of summary jurisdiction is empowered to make on any complaint or other proceeding under this Act.

Any decree or order pronounced or made by a sheriff under this Act shall be enforced in the same manner and under the same conditions in and under which a decree or order pronounced or made by him in his ordinary or small debt court, as the case may be, is enforced.

PART V.

Application of Act to Ireland.

Application
to Ireland.

XV. This Act shall extend to Ireland, with the modifications following; that is to say,

The expression "county court" shall be construed to mean civil bill court :

The expression "Lord Chancellor" shall be construed to mean the Lord Chancellor of Ireland :

The expression "the Summary Jurisdiction Act" shall be construed to mean, as regards the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, and elsewhere in Ireland, the Petty Sessions (Ireland) Act, 1851, and any Acts amending the same :

The expression "court of summary jurisdiction" shall be construed to mean any justice or justices of the peace or other magistrate to whom jurisdiction is given by the Summary Jurisdiction Act :

The court of summary jurisdiction, when hearing and determining complaints under this Act, shall in the police district of Dublin metropolis be constituted of one or more of the divisional justices of the said district, and elsewhere in Ireland of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions :

The expression "fifth section of the Debtors Act, 1869," shall be construed to mean "sixth section of Debtors Act (Ireland), 1872."

CHAPTER V.

 RULES

FOR

CARRYING INTO EFFECT THE JURISDICTION

GIVEN TO

COURT OF SUMMARY JURISDICTION IN ENGLAND

BY

THE EMPLOYERS AND WORKMEN ACT, 1875,

[38 & 39 VICT., CH. 90.]

1. A person desirous to enter an action under the Employers and Workmen Act, 1875, shall deliver to the clerk of the Court particulars in writing of his cause of action, and the clerk of the Court shall enter in a book to be kept for this purpose in his office a plaint in writing, stating the names and the last known places of abode of the parties, and the substance of the action intended to be brought; and thereupon a summons shall be issued according to the form in the Schedule, and be served on the Defendant, not less than one clear day before the day on which the Court shall be holden at which the cause is to be tried; and no misnomer or inaccurate description of any person or place in any such plaint or summons shall vitiate the same, so that the person or place be therein described so as to be commonly known.

2. The particulars shall be annexed to and be deemed part of the summons.

3. Such summons may issue in any district in which the Defendant or one of the Defendants dwelt or carried on his business or was employed at the time the cause of action arose.

4. Any summons which may be required to be served out of the district of the Court from which the same shall have issued, may be served by an officer of any other Court of summary jurisdiction, which service shall be proved by affidavit of the officer who served the summons.

5. The service of the summons shall be either personal, or by delivering the same to some person apparently sixteen years old, at the house or place of dwelling or place of business or of employment of the Defendant, or at the office of the employer for the time being of the Defendant.

Hearing.

6. No notice shall be required to be given by a Defendant of any set-off or counter-claim that he may wish to advance at the hearing against the claim of the Plaintiff.

7. If upon the day of the return of any summons, or at any continuation or adjournment of the said Court, the Plaintiff shall not appear, the cause shall be struck out, and the Court may award to the Defendant, by way of costs and satisfaction for his attendance, such sum as it in its discretion shall think fit.

8. If on the day named in the summons, or at any continuation or adjournment of the Court, the Defendant shall not appear, or sufficiently excuse his absence, or shall neglect to answer when called in court, the Court, upon due proof of service of the summons, may either adjourn the cause from time to time or proceed to the hearing of the cause on the part of the Plaintiff only, and the judgment thereupon shall be as valid as if both parties had attended; provided that the Court in any such case, at the same or any subsequent Court, may set aside any judgment so given in the absence of the Defendant, and the execution thereupon, and may grant a new trial upon such terms, if any, as it may think fit.

Judgment-Summons.

9. No order of commitment under the Debtors Act, 1869, shall be made unless a summons to appear and be examined on oath, hereinafter called a judgment-summons, shall have been personally served upon the judgment-debtor, which service where made out of the district shall be proved by affidavit.

10. A judgment-summons may issue although no distress-warrant has been applied for.

11. Every judgment-summons shall be according to the form in the Schedule, and be served not less than two clear days before the day on which the judgment-debtor is required to appear, except the judgment debtor is stated to be about to remove, or is keeping out of the way to avoid service.

12. The hearing of a judgment-summons may be adjourned from time to time.

13. Any witness may be summoned to prove the means of the judgment-debtor, in the same manner as witnesses are summoned to give evidence upon the hearing of a plaint.

14. An order of commitment made under the Debtors Act, 1869, shall be according to the form in the Schedule, and shall, on whatever day it may be issued, bear date on the day on which the order for commitment was made, and shall continue in force for one year from such date and no longer.

15. When an order of commitment for non-payment of money is issued, the Defendant may, at any time before his body is delivered into the custody of the gaoler, pay to the officer holding such order the amount indorsed thereon as that on the payment of which he may be discharged; and on receiving such amount the officer shall discharge the Defendant, and shall forthwith pay over the amount to the clerk of the Court.

16. The sum indorsed on the order of commitment as that upon payment of which the prisoner may be discharged may be paid to the clerk of the Court from which the commitment order was issued, or to the gaoler in whose custody the prisoner is. Where it is paid to the clerk, he shall sign and seal a certificate of such payment, and upon receiving such certificate by post or otherwise, the gaoler in whose custody the prisoner shall then be shall forthwith discharge such prisoner. And where it is paid to the gaoler, he shall, upon payment to him of such amount, together with costs sufficient to pay for transmitting by post office order or otherwise such amount to the Court under the order of which the prisoner was committed, sign a certificate of such payment, and discharge the prisoner.

17. A certificate of payment by a prisoner shall be according to the form in the Schedule.

18. All costs incurred by the Plaintiff in endeavouring to enforce an order shall be deemed to be due in pursuance of such order under section 5 of the Debtors Act, 1869, unless the Court shall otherwise order.

Costs.

19. The costs to be paid in the first instance by every person seeking the assistance of the Court shall be those contained in the Schedule B to these Rules annexed.

20. The Court may, in its discretion, allow any party, in respect of any expense he may have incurred in the employment of a solicitor, any

sum not exceeding ten shillings where the sum claimed exceeds forty shillings, and not exceeding fifteen shillings where it exceeds five pounds.

Forms.

21. The forms given in the Schedule shall be used, with such variations as may be necessary to meet the circumstances of each Court.

13th August, 1875.

CAIRNS, C.

SCHEDULE.

1.

SUMMONS TO APPEAR.

Employers and Workmen Act, 1875.

In the [county of . Petty Sessions District of .]

Between A.B., Plaintiff,

[Address, Description,]

and

C.D., Defendant,

[Address, Description.]

You are hereby summoned to appear on the day of
18 , at the hour of in the noon, at
 , before [two of such justices of the peace of the county as might
there be], to answer the Plaintiff, to a claim, the particulars of which are
hereunto annexed.

Given under my hand and seal this day of 18 .
J. S. (L.S.)

NOTE.—(This, and all other summonses issued under the Employers and Workmen Act, 1875, may be signed by the clerk to the justices, where such justices shall, by a general direction, authorise their clerks to sign them in lieu of one of themselves.)

2.

SUMMONS TO WITNESS.

Employers and Workmen Act, 1875.

In the [county of . . . Petty Sessions District of . . .]
 Between A.B., Plaintiff,
 and
 C.D., Defendant.

You are hereby required to attend at
 on the day of 187 , at the hour of
 in the noon, to give evidence in the above cause on
 behalf of the [Plaintiff or Defendant, as the case may be].

Given under my hand and seal this day of 187 .
 J. S. (L.S.)

To .

3.

JUDGMENT FOR PLAINTIFF.

Employers and Workmen Act, 1875.

In the [county of . . . Petty Sessions District of . . .]
 Between A.B., Plaintiff,
 and
 C.D., Defendant.

It is this day adjudged that the Plaintiff do recover against the Defen-
 dant the sum of £ for debt [or damages], and £ for
 costs, amounting together to the sum of £ .

And it is ordered that the Defendant do pay the same to the Plaintiff on
 or before the day of [or by instalments of for
 every days; the first instalment to be paid on or before the
 day of 18]; and if the same be not paid as ordered
 it is hereby further ordered that the same be levied by distress and sale
 of the goods and chattels of the said Defendant.

Given under our hands and seals this day of
Signatures of two of the Justices } J. S. (L.S.)
by whom order made. } J. S. (L.S.)

4.

JUDGMENT FOR DEFENDANT.

Employers and Workmen Act, 1875.

In the [county of . Petty Sessions District of .]
 Between *A.B.*, Plaintiff,
 and
C.D., Defendant.

Upon hearing this cause this day, it is adjudged that judgment be entered for the Defendant, and that the Plaintiff do pay the sum of £ for the Defendant's costs on or before the day of ; and if the same be not paid as ordered it is hereby further ordered that the same be levied by distress and sale of the goods and chattels of the said Plaintiff.

Given under our hands and seals this day of 187 .
Signatures of two of the Justices } J. S. (L.S.)
by whom order made. } J. S. (L.S.)

5.

JUDGMENT-SUMMONS.

Employers and Workmen Act, 1875, and the Debtors Act, 1869.

In the [county of . Petty Sessions District of .]
 Between *A.B.*, Plaintiff,
 [Address, Description,]
 and
C.D., Defendant,
 [Address, Description].

Whereas the Plaintiff [or Defendant] obtained an order against you the above-named Defendant [or Plaintiff] in this Court on the day of 187 , for the payment of pounds shillings and pence.

And whereas you have made default in payment of the sum payable in pursuance of the said order.

You are therefore hereby summoned to appear personally in this Court at [place where Court holden] on the day of 187 , at the hour of in the noon, to be examined on oath by the Court touching the means you have or have had since the

date of the order to satisfy the sum payable in pursuance of the said order; and also to show cause why you should not be committed to prison for such default.

Given under my hand and seal this day of 187 .
J. S. (L.S.)

C. J.

Amount of order, and costs - . - -

Costs of distress against the goods, if any - -

J. E. J.

	Paid into Court	-	-	-
Deduct	{ Instalments which were not required to have been paid before the date of the summons	-	-	-

Sum payable	-	-	-	-	-	-
-------------	---	---	---	---	---	---

Costs of this summons - - - - -

Amount upon the payment of which no further proceedings will be had until default in payment of next instalment - - - - -

6.

ORDER OF COMMITMENT.

Employers and Workmen Act, 1875, and the Debtors Act, 1869.

In the [county of . . . Petty Sessions District of . . .]

Between *A.B.*, Plaintiff,

and

C.D., Defendant.

To the constable of _____ and all other officers of the county,
and to the governor or keeper of the [prison of the county to which debtors
are committed].

Whereas the Plaintiff [*or* Defendant] obtained an order against the Defendant [*or* Plaintiff] in this Court on the day of 187 , for the payment of £ :

And whereas the Defendant hath made default in payment of
payable in pursuance of the said order:

And whereas a summons was, at the instance of the Plaintiff [*or Defendant*] duly issued out of this Court, by which the Defendant [*or Plaintiff*] was required to appear personally at this Court on the day of 187 , to be examined on oath touching the means he had then or had had since the date of the order to satisfy the sum then due and payable in pursuance of the order, and to show cause why he should not be committed to prison for such default.

And whereas, at the hearing of the said summons, the Defendant [*or Plaintiff*] appeared [*or the summons was proved to have been personally and duly served*] and it has now been proved to the satisfaction of the Court that the Defendant [*or Plaintiff*] now has [*or has had*] since the date of the order the means to pay the sum then due and payable in pursuance of the order, and has refused [*or neglected*] [*or then refused or neglected*] to pay the same, and the Defendant [*or Plaintiff*] has shown no cause why he should not be committed to prison.

Now, therefore, it is ordered that, for such default as aforesaid, the Defendant [*or Plaintiff*] shall be committed to prison for days, unless he shall sooner pay the sum stated below as that upon the payment of which he is to be discharged.

These are, therefore, to require you, the said constable and peace officers, to take the Defendant [*or Plaintiff*] and to deliver him to the governor or keeper of the [*prison aforesaid*], and you the said governor or keeper to receive the Defendant [*or Plaintiff*] and him safely keep in the said prison for days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Given under our hands and seals this [*insert date of order*] day of 187 .

Signature of two of the Justices } J. S. (L.S.)
by whom order made. } J. S. (L.S.)

£ s. d.

Total sum payable at the time of hearing of the judgment summons	-	-	-	-	-
Hearing of summons, and cost of order	-	-	-	-	-

Total sum upon payment of which the prisoner will be discharged-

7.

CERTIFICATE FOR THE DISCHARGE OF A PRISONER FROM CUSTODY.

Employers and Workmen Act, 1875, and the Debtors Act, 1869.

In the [county of . Petty Sessions District of .

Between A.B., Plaintiff,

and

C.D., Defendant.

I hereby certify that the Defendant [or Plaintiff] who was committed to your custody by virtue of an order of commitment under the seals of two justices of this Court, bearing date the day of 187 , has paid and satisfied the sum of money for the non-payment whereof he was so committed, together with all costs due and payable by him in respect thereof; and that the Defendant [or Plaintiff] may, in respect of such order, be forthwith discharged out of your custody.

Dated this day of 187 .

Clerk of the Court.

To the governor or keeper of

8.

WARRANT OF DISTRESS FOR PAYMENT OF MONEY BY PLAINTIFF.

Employers and Workmen Act, 1875.

In the [county of . Petty Sessions District of .]

Between A.B., Plaintiff,

and

C.D., Defendant.

Whereas at a Court holden at on the day of 187 , it was ordered by the Court that judgment should be entered for the Defendant, and that the Plaintiff should pay to the Defendant, on or before the day of , the sum of £ for the Defendant's costs of suit; and that if the same were not paid as ordered, it was further ordered that the same should be levied by distress and sale of the goods and chattels of the said Plaintiff:

And whereas default has been made in payment according to the said order: These are therefore to command you forthwith to make distress of the goods and chattels of the Plaintiff (excepting the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum of £ , being the amount due to the Defendant under the said order, together with the

reasonable charges for taking and keeping the said distress; and that you do pay what you shall have so levied to the clerk of this Court.

Given under my hand and seal this day of 187 .
To the Constable of , J. S. (L.S.)
and all other Peace Officers
in the county.

NOTICE.—The goods and chattels are not to be sold until after the end of five clear days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said Plaintiff.

9.

WARRANT OF DISTRESS FOR PAYMENT OF MONEY BY DEFENDANT.

Employers and Workmen Act, 1875.

In the [county of . Petty Sessions District of .]
Between A.B., Plaintiff,
and
C.D., Defendant.

Whereas on the day of 187 , the Plaintiff obtained a judgment in this Court against the Defendant for the sum of £ ; and it was thereupon ordered by the Court that the Defendant should pay the same to the Plaintiff on the day of [or by instalments of for every days]; and that if the same were not paid as ordered, it was further ordered that the same should be levied by distress and sale of the goods and chattels of the said Defendant:

And whereas default has been made in payment according to the said order: These are therefore to command you forthwith to make distress of the goods and chattels of the Defendant (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum of £ , being the amount due to the Plaintiff under the said order, together with the reasonable charges of taking and keeping the said distress; and that you do pay what you shall have so levied to the clerk of this Court.

Given under my hand and seal this day of 187 .
To the Constable of , J. S. (L.S.)
and all other Peace Officers
in the county of .

NOTICE.—The goods and chattels are not to be sold until after the end of five clear days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the Defendant

10.

UNDERTAKING IN WRITING BY DEFENDANT TO PERFORM CONTRACT.

Employers and Workmen Act, 1875.

In the [county of . Petty Sessions District of .]
 Between A.B., Plaintiff,
 and
 C.D., Defendant.

Whereas it has been found by this Court on the day of 187 , that the Defendant had broken the contract for the breach of which he was summoned:

And whereas the Court would have awarded to the Plaintiff the sum of £ by way of damages suffered by him in consequence of such breach, and would have ordered him to have paid such sum, but that the Defendant was willing to give security for the performance by him of so much of the contract as remains unperformed:

Now therefore I the undersigned Defendant, and we the undersigned sureties [or the undersigned surety], do undertake that the said Defendant will perform so much of the said contract as remains unperformed, that is to say, [*here set out so much of the contract as remains to be performed*]:

And I the said Defendant, and we [or I] the said sureties [or surety], hereby severally acknowledge ourselves bound to forfeit to A.B., the Plaintiff, the sum of pounds and shillings, in case the said Defendant fails to perform what he has hereby undertaken to perform.

(Signed *where not taken orally*) C.D., Defendant.

E.F., } Sureties.
 G.H., }

Taken [orally] before me this day of 187 .
 J. S. (L.S.)

NOTE.—Where the undertaking is given orally, strike out the word “undersigned” where they occur, and insert the word “orally” after “Taken.”

11.

ORDER ON AN APPRENTICE TO PERFORM HIS DUTIES.

Employers and Workmen Act, 1875.

In the [county of . Petty Sessions District of .]
 Between A.B., Plaintiff,
 and
 C.D., Defendant.

It is ordered that the Defendant do forthwith perform the duties he has contracted to perform under his apprenticeship to the Plaintiff.

Given under our hands and seals this day of 187 .
Signatures of two of the Justices } J. S. (L.S.)
by whom order made. } J. S. (L.S.)

12.

ORDER RESCINDING A CONTRACT OF APPRENTICESHIP.

In the [county of . Petty Sessions District of .]
 Between A.B., Plaintiff,
 and
 C.D., Defendant.

It is adjudged that the instrument of apprenticeship made between the Plaintiff and Defendant be rescinded, and that the Plaintiff [or Defendant] do pay to M.N. of the sum of pounds, being the whole [or a part] of the premium paid by the said M.N. on the binding of the Defendant [or Plaintiff] as apprentice to the Plaintiff [or Defendant].

Given under our hands and seals this day of 187 .
Signatures of two of the Justices } J. S. (L.S.)
by whom order made. } J. S. (L.S.)

13.

COMMITTAL OF AN APPRENTICE.

Employers and Workmen Act, 1875.

In the [county of . Petty Sessions District of .]
 Between A.B., Plaintiff,
 and
 C.D., Defendant.

To the constable of and all other the peace officers of .
 Whereas on the day of 187 , it was ordered that the Defendant should forthwith perform the duties he had contracted to perform under his contract of apprenticeship to the Plaintiff:

And whereas it hath been made to appear to the satisfaction of the Court on the oath of the Plaintiff [and of G.H. of] that the Defendant has failed to comply with the requirements of the said order:

Now, therefore, it is ordered that the said Defendant be committed to prison for days.

These are therefore to require you the constable of and others to take the Defendant and deliver him to the governor and keeper of the [prison], and you the said governor or keeper to receive the Defendant and him safely keep in the said prison for days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Given under our hands and seals this day of 187 .
Signatures of two of the Justices } J. S. (L.S.)
by whom order made. } J. S. (L.S.)

14.

ACCEPTANCE OF SECURITY FOR PERFORMANCE OF CONTRACT BY AN
APPRENTICE.*Employers and Workmen Act, 1875.*

In the [county of . Petty Sessions District of].
Between A.B., Plaintiff,
and
C.D., Defendant,
and

E.F., bondsman under the contract of apprenticeship of the Defendant.

Whereas on the day of 187 , it was ordered that the Defendant should forthwith perform the duties he had contracted to perform under his contract of apprenticeship to the Plaintiff:

And whereas it hath been made to appear to the satisfaction of the Court on the oath of the Plaintiff [and of G.H. of] that the Defendant has failed to comply with the requirements of the said order:

And whereas by the said failure the Defendant hath rendered himself liable to be committed:

And whereas E.F. [or R.S. of] is willing to give security to the amount of pounds for the due performance by the Defendant for his duties under his said contract of apprenticeship:

Now, therefore, the Court doth direct such security to be forthwith given, and doth order that if payment of the said sum be not made on the Defendant failing to perform his contract such sum may be levied by distress of the goods and chattels of the said E.F. [or R.S.], or an application be made to this Court for commitment of the said E.F. [or R.S.] according to the provisions of this Act.

Given under our hands and seals this day of 187 .

Signatures of two of the Justices } J. S. (L.S.)
by whom order made. } J. S. (L.S.)

15.

APPLICATION FOR THE SUMMONING OF A BONDSMAN FOR AN APPRENTICE.

Employers and Workmen.

In the [county of . Petty Sessions District of].
Between A.B., Plaintiff,
and
C.D., Defendant.

The Plaintiff in this case applies to the Court to direct that E.F., of

, who is liable under the instrument of the apprenticeship of the Defendant to the Plaintiff for the good conduct of the Defendant as apprentice to the Plaintiff, be summoned to attend at the hearing of the proceeding.

(Signed) *A.B.*, Plaintiff.

It is hereby directed by the Court that *E.F.* be summoned accordingly.

Given under my hand and seal this day of 187 .
J. S. (L.S.)

16.

SUMMONS TO A BONDSMAN FOR AN APPRENTICE.

Employers and Workmen Act, 1875.

In the [county of . *Petty Sessions District of*]
Between *A.B.*, Plaintiff,
and
C.D., Defendant.

To *E.F.* of

Take notice that you are hereby summoned to attend at
on the day of 187 , at o'clock in the
noon, to show cause why the Court should not, in addition to or in
substitution for any order to be made against the said Defendant, order
you to pay the amount of any damages which it may find that the
Plaintiff has suffered in consequence of the breach of the contract of
apprenticeship made between you and the Plaintiff and the Defendant.

Given under my hand and seal this day of 187 .
J. S. (L.S.)

17.

ORDER ON A BONDSMAN FOR AN APPRENTICE TO PAY DAMAGES.

Employers and Workmen Act, 1875.

In the [county of . *Petty Sessions District of* .
Between *A.B.*, Plaintiff,
and
C.D., Defendant,
and

E.F., bondsman under the contract of apprenticeship of the
Defendant.

It is adjudged that the said bondsman do pay to the Plaintiff, on or
before the day of 187 , the sum of pounds for

damages suffered by him in consequence of the breach of the contract of apprenticeship made between the Plaintiff, Defendant, and the said bondsman; and if the same be not paid as ordered, it is hereby further ordered that the same be levied by distress and sale of the goods and chattels of the said bondsman.

Given under our hands and seals this day of 187 .
Signatures of two of the Justices } J. S. (L.S.)
by whom order made. } J. S. (L.S.)

18.

PLAINT AND MINUTE BOOK.

Employers and Workmen Act, 1875.

Date.	Plaintiff.	Residence.	Trade.	Defendant.	Residence.	Trade.	Particulars of Dispute.	Order made.	Subsequent Proceedings.

SCHEDULE B.

	s.	d.
For entry of every plaint, including summons thereon -	-	1 0
For order on a plaint - - - - -	-	2 0
For every undertaking given by way of security - - -	-	2 0
For judgment-summons, including hearing - - -	-	1 0
For warrant of distress or order of commitment - - -	-	2 0
For summons to witness - - - - -	-	1 0

N.B. Where the sum claimed exceeds £1 0s. 0d., or the sum in respect of the non-payment of which the summons for or order of commitment or warrant of distress issues exceeds £1 0s. 0d., an additional fee of one shilling shall be taken.

For mileage in serving or executing process - - - - - } Such reasonable cost as may be
 For affidavit and postage - - - } allowed by the Court.

13th August, 1875.

CAIRNS, C.

CHAPTER VI.

Titles.

THE COUNTY COURTS ACT, 1875,

[38 & 39 VICT., CH. 50]

AND THE COUNTY COURT RULES, 1875, & 1876.

ABSTRACT OF THE ACT, AND RULES.

Date of Act.	The new County Court Act was passed on the 2nd day of
Date of commencement of operation of Act, and rules.	August, 1875, and came into force on the 2nd day of November, 1875, on which day also the new orders and rules entitled "The Consolidated County Court Orders and Rules, 1875," came into force in lieu of those formerly in use, except those having reference to proceedings under the Bankruptcy Act, 1869; the Charitable Trusts Acts, and the Probate Acts; and these new Rules were amended by further Rules to be cited as "The County Court Rules, 1876," which came into force on the 3rd day of April, 1876, and of which each Rule may be cited as if it had been one of "The County Court Rules, 1875," and had been numbered therein by the number of the Order and Rule placed in the margin opposite each of these further Rules.
Exceptions as to rules.	
Rules only dealt with which apply to employers and workmen.	As this book is only intended to treat of the claims of Employer and Employed, it will not be necessary to deal with The County Court Rules, 1875, and 1876, except in so far as they affect disputes between workmen and their employers.
Employers and Workmen Act, 1875. Order 38, Rule 50.	The following appear to be the chief provisions having reference to or affecting any proceedings under the Employers and Workmen Act, 1875:—

"In any action between employers and workmen the Court may exercise any of the powers mentioned in subsection one of section three of the Employers and Workmen Act, 1875, although the parties may not have given any of the notices required by Orders IX. and X. of these Rules." The notices here referred to are,—notices of special defences by the defendant against the claims of the plaintiff, as where he intends to rely on a set-off or counter-claim whether sounding in (asking for) damages or not; or on insanity; or coverture where the defendant is a married woman; or the Statute of Limitations; or any Statutory defence; or equitable relief; or claim for contribution, indemnity, &c.

All actions, suits, and proceedings in a County Court shall henceforth be called actions, and shall be commenced by entering a plaint, and issuing a summons—forms of which are obtained from the registrar of the Court.

No plaint shall be entered unless the plaintiff shall give the Christian name and surname, description, and residence, or place of business of himself, and of the solicitor, if any, entering the plaint, and the surname (and, where known, the Christian name) and description, and the residence or place of business of the defendant, (and, where known, the name of the street and number of such house or place of business), and the descriptions and addresses so given shall be inserted in any such process or attached thereto.

An infant (*i.e.* a person under age) may commence an action for wages or piece-work, or for work as a servant without a next friend, but in other actions he must procure the attendance of a next friend, at the office of the registrar, at the time of entering the plaint; and the next friend must undertake to be responsible for costs, and will be liable for all that may be incurred in the same manner and to the same extent as if he were a plaintiff in an ordinary action.

Where a plaint is entered by a married woman, she shall state the name, and so far as she can, the address and description of her husband; and shall, unless the Court shall otherwise order, also procure the attendance of a next friend, who shall give the undertaking and incur all the liability provided in the case of an infant plaintiff.

Notices of special defences.
Order 9, Rules 1a, 7, 8a, 9, 10, 11, 14, 15, and 17.
Order 10 (a).
Rules (1), (2), and (3).
Actions.
Order 4, Rule 1.

Plaints, entry of.
Order 4, Rule 3.

Infants suing.
Order 4, Rule 9.

Married women.
Order 4, Rule 10.

Particulars of demand.
Order 7, Rule 1

A plaintiff shall in all cases, except where the sum is sought to be recovered by ordinary summons and does not exceed 40s., at the time of the entry of the plaint, file particulars of his demand or cause of action.

Where there are several claims.
Order 7, Rule 7.

Where the plaintiff seeks to obtain payment or relief upon more than one cause of action or claim he shall state in his particulars the ground of each claim separately, and shall also state separately the payment or relief he claims in respect of each.

Notice of requiring further particulars.
Order 7, Rule 8.

In all actions the defendant may within three clear days of his being served with the summons give notice to the plaintiff that he requires further particulars, and the plaintiff shall, within two clear days of service of such notice, file full particulars of his claim and of the relief or remedy to which he claims to be entitled, and within the same time shall deliver to the defendant a copy thereof. Such particulars shall be written on paper of the description heretofore used in suits in equity, and shall state as concisely as may be the material facts on which the plaintiff relies, and shall be divided into paragraphs numbered consecutively, and each paragraph containing as nearly as may be a separate allegation. Dates, sums, and numbers shall be expressed in figures.

Practice where such notice is given
Order 7, Rule 8.

Ordinary summons.
Order 8, Rules 1 and 2.

Summonses to appear to a plaint for a debt or liquidated money demand are given by the registrar when the plaint is entered, and are to be dated of the day on which the plaint is entered, and the date is the commencement of the action, and summonses in the ordinary form, which, where a workman is defendant, are to be issued, where the amount claimed does not exceed £5, may be served either on the defendant personally, or by delivering the same to some person, apparently not less than sixteen years old, at the house or place of dwelling, or place of business of the defendant, unless the bailiff shall ascertain that the defendant has removed to some other place within the district, in which case he shall serve the summons at such other place.

County Courts Act, 1875.
Order 4, Rule 5.
Service of summons.
Order 8, Rule 9.

Where service of ordinary summons has not been personal.

Where the summons, though not served personally, has been delivered at the house or dwelling or place of business of the defendant, and the defendant does not appear in person

or by his solicitor or agent, the action may proceed, if the Court is satisfied that the service of such summons has come to the knowledge of the defendant.

Where the defendant is an infant, service on his father or guardian, or if none, then upon the person with whom he resides, or under whose care he is, will be deemed good service unless the Judge or registrar otherwise orders. Where a defendant is working in a mine or other works underground, it will be sufficient service to deliver the summons at the mine or works, to the engine-man, banks-man, or other person apparently in charge of the mine or works.

Where the amount claimed against a workman exceeds £5, and in cases under that amount where he is plaintiff with the leave of the Judge or registrar, and in all other cases where he is plaintiff, the plaintiff may, at his option, cause to be issued an ordinary summons, or, upon filing an affidavit in the prescribed form of the debt being due, a special summons in the form or to the effect given in the County Courts Act, 1875, for the purpose of obtaining judgment by default, which summons must be personally served on the defendant.

If the defendant shall not, within sixteen days after service of the summons, inclusive of the day of service, give notice in writing, signed by himself, or his solicitor, to the registrar of the Court from which the summons issued, of his intention to defend, the plaintiff may, after sixteen days and within two months from the day of service, upon proof of its service, or of an order for leave to proceed, as if personal service had been effected, have judgment entered up against the defendant for the amount of his claim and costs, such costs to be taxed by the registrar.

The order upon such judgment will be for payment forthwith, or at such time or times, and by such instalments, if any, as the plaintiff or his solicitor shall in writing have consented to take at the time of the entry of the plaint or of the judgment. But such judgment shall not be signed after two months from the date of service of the default summons.

Where the defendant gives notice of defence the registrar must, immediately upon the receipt of such notice, send a letter by post to the plaintiff or his solicitor, stating that the

Order 8, Rule 22.

Service on an infant.
Order 8, Rule 10.

Service on a miner.
Order 8, Rule 16.

Default summons.

County Courts Act, 1875.

Notice to defend after service of default summons.

Judgment and costs.

Order for payment.
Limitation of time for signing judgment of default summons.
Order 8, Rule 31.

Notice of defence.

defendant has given notice of his intention to defend, and shall send by post, to both plaintiff and defendant, notice of the day upon which he shall have fixed that the trial shall take place, at least six clear days before the day so fixed.

Where notice of defence is not given.

Where a defendant neglects to give a notice of defence the Judge or registrar shall, upon an affidavit disclosing a defence upon the merits, and satisfactorily explaining his neglect, let in the defendant to defend upon such terms as he may think just.

Where personal service cannot be effected of default summons.

Where personal service cannot be effected, and the Judge or registrar is satisfied by affidavit that reasonable efforts have been made to effect such service, and either that the summons has come to the knowledge of the defendant, or that he wilfully evades service of the same, it shall be lawful for the Judge or registrar to order that the plaintiff be at liberty to proceed as if personal service had been effected, subject to such conditions as to the Judge or registrar may seem fit.

Default summons and non-appearance.
Order 16, Rule 6.

Where a default summons has been issued, and notice of defence has been given, and neither the plaintiff nor defendant appear at the return-day, the action shall be struck out; and where notice of defence has been given, and the defendant appears and the plaintiff does not appear, the action shall be struck out, and costs ordered against the plaintiff, and where the plaintiff appears and the defendant does not, judgment may be entered for the plaintiff without further proof.

Discontinuance of action.
Order 12, Rule 1a.
Form 284.

The plaintiff may discontinue the action against all or any of the parties thereto upon giving notice to the registrar, and to the party or parties as to whom he desires to discontinue the action, and, after the receipt of such notice the party may apply *ex parte* for an order against the plaintiff for the costs incurred before the receipt of such notice, and of attending the Court to obtain the order.

Disclaimer admission and other statements by defendant.
Order 12, Rule 2.

The defendant may file a statement disclaiming any interest in the subject matter of the action, or admitting or denying any of the statements in a plaintiff's particulars, or raising any question of law on such statements without admitting the truth thereof; or he may therein state concisely

any new fact or document upon which he intends to rely as a defence, or to bring to the notice of the Court; and a copy thereof shall be transmitted by the registrar to the plaintiff: Provided always, that in exercising his discretion as to costs, the Judge shall consider the fact of a defendant having or not availed himself of the powers given by this rule.

Where a defendant desires to admit the truth of the statement in the plaintiff's particulars, and to submit to the judgment of the Court thereon, he may at any time before the return-day, in the presence of a registrar of a County Court, or in the presence of one of his clerks, or of a solicitor, sign an admission in the form contained in the Schedule to these orders; and the signature of the defendant thereto shall be verified by affidavit, unless signed in the presence of a registrar of a Court, or of one of his clerks, and such admission shall be filed at least five clear days before the return-day; and the registrar shall transmit a copy thereof by post to the plaintiff or his solicitor; and the plaintiff shall not, unless the Judge shall otherwise order, be allowed any costs incurred after the service upon him of such admission in relation to the proof of the matter so admitted: Provided that the plaintiff, or his solicitor, shall be entitled, notwithstanding such admission, to his costs of attending on the day of trial to enter up judgment and tax his costs.

Where the defendant is desirous of paying money into Court on an ordinary summons, he shall, except where otherwise expressly provided, pay the same at least five clear days before the return-day, with Court fees proportionate to the amount paid in, and the solicitor's costs, if any; and the registrar shall within twenty-four hours from the time of such payment send to the plaintiff notice thereof by post: Provided, that at any time before the return-day the defendant may pay money into Court, with such costs as aforesaid, and the registrar shall give notice thereof to the plaintiff as aforesaid; but where money is so paid in less than five clear days before the return-day, or without such costs, it shall be lawful for the Court to order the defendant to pay such fees and costs as the plaintiff shall have properly incurred in entering the plaint, preparing for trial, and in attending the Court, but no hearing fee shall be charged.

Admission of
truth of plain-
tiff's state-
ment.
Order 12, Rule
3.

Form.

Payment into
Court before
judgment,
how made.
9 & 10 Vict.
c. 95, sect. 82.
Order 12, Rule
4.

Acceptance of amount paid in as satisfaction of claim. 9 & 10 Vict. c. 95, sect. 82. Order 12, Rule 5.

If the plaintiff elect to accept, in full satisfaction of his claim, including costs, such money as shall have been paid into Court by the defendant, and shall send to the registrar and to the defendant by post, or leave at the registrar's office and at the defendant's place of dwelling or place of business, a written notice, stating such acceptance; within such reasonable time before the return-day as the time of payment by the defendant has permitted, the action shall abate, and the plaintiff shall not be liable to any further costs. But in default of such notices from the plaintiff the action may proceed.

Where payment made after notice of defence given. Order 12, Rule 5a.

Where a notice of defence under section one of the County Courts Act, 1875, has been given, and the defendant, before notice of the day fixed for the trial by the registrar has been sent to the plaintiff, pays into Court the amount claimed, together with the fees and costs charged on the summons, he shall not be liable for any further costs. Where notice of trial has been so sent, it shall be lawful for the Court to order the defendant to pay such further fees and costs as the plaintiff may have, prior to receiving notice from the registrar of the payment into Court, incurred in preparing for trial, and may incur in attending Court on the day fixed for the trial to obtain this order, and such order shall be for payment forthwith.

Where amount admitted includes amount of a set-off or counter-claim. Order 12, Rule 6a.

Where a defendant pays into Court any sum admitted by him to be due after deducting any amount he may claim as a set-off or counter-claim, he shall pay therewith Court fees proportionate to the total amount of the sum paid in, and of the sum he claims by way of set-off or counter-claim.

In certain cases amount paid in to be retained. Order 12, Rule 8.

Where a defendant pays money into Court in part payment of the amount claimed, or in order that he may plead the defence of tender, and the plaintiff does not accept the sum paid in satisfaction of the action, the money shall not be paid out until after the judgment, and then if any costs shall have been awarded to the defendant, such costs shall be deducted therefrom and be paid to the defendant.

Production of documents. Order 13, Rule 1.

Where in any action any party desires the production of any document or documents relating to the matter in question in such action, he shall make an affidavit that he has reason to believe that such document or documents is or are in the

possession or power of one of the parties, and the registrar shall, upon the delivery to him of the affidavit and a copy thereof, file the affidavit, and make an order (annexing thereto the copy of the affidavit), that the party against whom such application is made shall answer on affidavit stating what documents he has in his possession or power relating to the matters in dispute, or what he knows as to the custody they or any of them are in, and whether he objects, and if so, on what grounds, to the production of such of the documents as are in his possession or power; and the time within which the opposite party shall return such affidavit to the Court shall be stated in the order, which order shall be served by the bailiff of the Court or a solicitor, or by post.

The party against whom such order is made shall answer on affidavit according to the terms of the order, and send the affidavit and a copy thereof to the registrar, by post or otherwise, within the time stated in the order; and the registrar shall, immediately upon receiving such affidavit, file the same and transmit by post or otherwise to the party making the application, the copy of the affidavit.

Answer to
order to pro-
duce.
Order 13, Rule
2.

Where after such last-mentioned affidavit is filed, the party making the application requires a further order thereon, he shall apply to the registrar for such further order, and if there be no matter of fact or law in dispute between the parties, the registrar shall make an order in writing, in accordance with the facts; but if there shall be any matter of fact or law in dispute between the parties, the registrar shall transmit both affidavits to the Judge, who shall direct the registrar to give notice, by post or otherwise, to both parties of a time and place when and where he will hear the application, and make such order thereon as shall be just.

Further order
after answer
received.
Order 13, Rule
3.

An order for the production of any deed or document shall state the time when and the person to whom the same shall be produced, and it may further order that the same may be deposited with the registrar to be produced at any trial or hearing, or that the registrar may make a copy thereof for any party.

Order shall
state time, &c.
of production.
Order 13, Rule
4.

Where in any action any party is desirous of inspecting Inspection of

documents.
Order 13, Rule
6.

any written or printed document or instrument which he is entitled to inspect, relating to the matter in question in such action, and which shall be in the possession or power or under the control of the other party, such first-mentioned party may, five clear days before the day of hearing, give notice to the other party, by post or otherwise, that he or his solicitor desires to inspect any such document or instrument, describing the same, at any place to be appointed by the other party; and if such other party shall neglect or refuse to appoint such place, or allow such plaintiff or defendant or his solicitor to inspect such document or instrument within three clear days after receiving such notice, the Judge may, in his discretion, on the day of trial, adjourn the action and make such order as to costs as he shall think fit.

Interroga-
tories.
Order 13, Rule
6.

Where a party desires to interrogate any party he shall apply to the registrar for leave to deliver interrogatories, and upon making such application he shall file an affidavit, made by himself only or by himself and his solicitor or agent, if any, or by leave of the registrar by his solicitor or agent only, stating that the deponent believes that the party proposing to interrogate will derive material benefit in the action from the discovery which he seeks, and that there is a good cause of action or defence upon the merits. And upon such application the registrar shall make an order according to the form in the Schedule that the applicant may, within a time to be named in such order, deliver to the party to be interrogated interrogatories in writing upon any matter as to which the applicant seeks discovery, and shall in such order require the party interrogated to answer the questions in writing by affidavit, and file such answers within such time to be appointed by the registrar as shall enable the party making the application to use the answers so returned as evidence at the trial.

Form.

Objections to
interroga-
tories.
Order 13, Rule
7.

Where a party served with the order shall object to answer the interrogatories, he shall file an affidavit stating his grounds for objecting, and that he will be prepared to show cause to the Court at the return-day against his being required to answer them, but where it is only some of the interrogatories he objects to answer, he may include in his affidavit both his replies and his objections.

Where the party required to answer interrogatories shall successfully show cause against an order requiring him to answer them, the Judge may direct the action to proceed, or to be adjourned if he thinks fit, and upon terms as to costs; but if the party objecting shall not show sufficient cause for his objection, the Judge may order the interrogatories to be then and there answered *voir dire* in Court, or may adjourn the action, and make an order for the answering of the interrogatories by such time, and for the payment of such costs, as may have been incurred through the delay, as he may think fit.

Successful objection.
Order 13, Rule 8.

Where a party desires to give in evidence any document, he may, not less than five clear days before the trial, give notice to any other party in the action who is competent to make admissions requiring him to inspect and admit such document; and if such other party shall not within three days after receiving such notice make such admission, any expense of proving the same at the trial shall be paid by him, whatever be the result of the action, unless the Court shall otherwise order; and no costs of proving any document shall be allowed unless such notice shall be given, except in cases where, in the opinion of the registrar, the omission to give such notice has been a saving of expense.

Admission of documents.
Order 13, Rule 9.

Either plaintiff or defendant may obtain of the registrar summonses to witnesses, with or without a clause requiring the production of books, deeds, papers, and writings in the possession or control of the person summoned as a witness; and if this witness does not at the trial produce the documents required, the Court may, upon admission or proof of the service of the summons, and of the documents being in the possession or power or under the control of the witness, and that they relate to the matter before the Court, order their production. These summonses may be served by a bailiff of the Court, or by leave of the Judge or registrar, by the party applying for the same, or his solicitor, or by some person in the personal and exclusive employment of the party or his solicitor, but only one name may be inserted in the summons, and it must be served a reasonable time before the day of trial.

Witnesses and production of books, papers, &c.
The County Courts Act, 1875.
Order 14, Rule 4.

Service of summons on witnesses.
Order 14.
Rules 1 and 2.

Proof of service of summons.

Where any summons or other process is served by a bailiff, the service may be proved by endorsement on a copy of the summons or process under the bailiff's own hand, showing the fact and mode of the service of such summons or process.

Several persons may, as plaintiffs, be joined in one action.
Order 5, Rule 1.

All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist whether jointly, severally, or in the alternative. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to.

Several persons may be joined as defendants in one action.
Order 5, Rule 2.
Order 16, Rule 15.

All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, and the costs shall be apportioned accordingly on separate judgments against each, unless the Judge shall otherwise order.

Proviso as to persons joined as defendants in the same action.
Order 5, Rule 3.

It shall not be necessary that every defendant to any action shall be interested as to all the relief thereby prayed for, or as to every cause of action included therein; but the Court or a Judge may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in such action in which he may have no interest.

Option of plaintiff to join several persons liable on one contract in one cause of action.

The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally, liable on any one contract.

Order 5, Rule 4.
In case of doubt as to proper person to be sued.
Order 5, Rule 5.

Where in any action, whether founded upon contract or otherwise, the plaintiff is in doubt as to the person from whom he is entitled to redress, he may join two or more defendants, to the intent that in such action the question as to which, if any, of the defendants is liable, and to what extent, may be determined as between all parties to the action.

Set-off.
Order 9, Rule 1a and 8.

A defendant may set-off, or set-up by way of counter-claim against the claims of the plaintiff, any right or claims, whether such set-off or counter-claim sound in (is for) damages or not, and when he intends to do so, he must give in his statement the particulars of such set-off or counter-claim.

Where in any action a set-off or counter-claim is established as a defence against the plaintiff's claim, the Court may, if the balance is in favour of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

Judgment may be given for balance found due to defendant.
Order 16, Rule 16.

Where a counter-claimant fails to establish his counter-claim, he may be ordered to pay to the plaintiff costs on such scale as the Court may think just, and where he succeeds in establishing his counter-claim, the plaintiff may be ordered to pay to him costs on such scale as the Court may think just.

Payments of costs in case of counter-claim.
Order 36, Rule 15.

Trustees, executors, and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives, without joining any of the parties beneficially interested in the trust or estate, and shall be considered as representing such parties in the action; but the Court may, at any stage of the proceedings, order any of such parties to be made parties to the action, either in addition to or in lieu of the previously existing parties thereto.

Trustees may sue and be sued.
Order 5, Rule 6.

Infants may defend any action by their guardians appointed for that purpose.

Infants.
Order 5, Rule 7.

Where an infant defendant appears at the return-day, and names a person willing to act as his guardian, and who then assents so to act, such person shall be appointed guardian accordingly; but if the defendant do not name a guardian, the Judge may appoint any person in Court willing to become guardian or in default of such person the Judge shall appoint the registrar of the Court to be guardian, and the action shall proceed thereupon as if another person had been appointed guardian, and the name of the guardian appointed shall be entered according to the form in the Schedule, but no responsibility shall attach to the person so appointed guardian at the instance of the Court.

Appointment of guardian ad litem to infant defendant.
Order 16, Rule 9.

Married women may also, by the leave of the registrar, sue or defend without their husbands, and without a next friend, on giving such security (if any) for costs as the registrar may require.

Married women.
Order 5, Rule 7.

One person may sue on behalf of others. Order 5, Rule 8.

Where there are numerous parties having the same interest in one action, one or more of such parties may sue or be sued, or may be authorised by the Judge to defend in such action, on behalf or for the benefit of all parties so interested. Any application under this rule may be made to the Judge either at the trial or in Chambers.

Co-partners to sue and be sued in the name of their firms. Order 5, Rule 9.

Any two or more persons claiming or being liable as co-partners may sue or be sued in the name of their respective firms, if any; and on application by any party to an action in such case the registrar may order a statement of the names of the persons who are co-partners in any such firms to be furnished in such manner, and be verified on oath or otherwise as the registrar may direct:—Provided that where an action is brought against a firm and the plaintiff desires to obtain judgment against each member of the firm, he shall state the names of the persons whom he believes are co-partners in such firm, and file an affidavit and copy thereof setting forth the grounds of his belief, and the registrar shall thereupon attach to the summons a copy of such affidavit, together with a notice, according to the form in the Schedule, that if sufficient cause be not shown at the trial the Judge will order judgment against all the persons whose names have been so given and verified; and the Judge may at the trial give judgment, if he thinks fit, against all the persons whose names have been inserted in such notice, and who shall have been served with the summons, with a copy of the affidavit, and notice annexed in the manner and within the time in which an ordinary summons should be served.

Form.

Names of co-partners. Order 11, Rule 9.

Where an action is brought in the name of a firm and the defendant desires to know the names of the persons who are co-partners in such firm, he shall give notice in writing, within three days after the service of the summons, to the plaintiff that he requires such names, and the plaintiff shall forthwith send by post to the defendant so applying, and to the registrar, the names and addresses of such persons. But the Judge may at any time without such notice order the plaintiff to give to any defendant the names of such persons.

Service of summons on partners.

Where partners are sued in the name of their firm, the summons served upon any one or more of the partners or at

their principal place of business upon any person having apparently the control or management of the partnership business there will be sufficient.

A plaintiff may unite in the same action several causes of action, without leave of the Court.

Claims by or against husband and wife may be joined with claims by or against either of them separately.

Claims by plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant.

If, however, these united causes of action or joined claims cannot be conveniently tried and disposed of together the Court may order separate trials, or exclude any such cause of action or claim, and may order the particulars to be amended.

A defendant may object to an action of contract in which a sum exceeding £20 is claimed, or an action of tort (wrong or injury) in which a sum exceeding £5 is claimed, being tried in the County Court in which case notice of his objection must be given personally or by post to the registrar of the Court and to the plaintiff five clear days before the return-day of trial, signed by the defendant, in the following form:—Take notice that under the provisions of section 39 of the County Courts Acts, 1856, I object to this action being tried in the County Court; and I propose as my sureties (here state the full names and additions, whether housekeepers or freeholders, and residences of such sureties) or, and I propose to deposit a sum of money in lieu of giving sureties.

If a jury be demanded, which may be on the requirement of either party where the sum claimed exceeds £5, and, at the discretion of the Judge, on the application of either party, where the amount claimed does not exceed £5, notice of such demand must be made in writing to the registrar of the Court three clear days before the day of trial, with 5s. for payment of the jury.

Where notice of a demand of a jury has not been given in due time, or if at the trial both parties desire to try by jury, the Judge may adjourn the action in order that the necessary steps for such trial may be taken.

The number of jurymen summoned to attend at a Court for the trial of action shall be ten, unless the Judge shall otherwise order.

Order 8, Rule 12.

Joinder of cause of action.

Order 6, Rule 3.

Claims by husband and wife.

Order 6, Rule 4.

Joint and separate claims by plaintiffs.

Order 6, Rule 6.

In joint causes of action separate trials may be ordered.

Order 6, Rule 7.

Objection to the action being tried in the County Court.

Order 6, Rule 5.

Schedule of forms No. 76.

Notice of demand for a jury.

Order 16, Rule 1.

Adjournment for trial by jury.

Order 16, Rule 2.

Number of jurymen.

Order 16, Rule 4.

Failure to appear, of plaintiff or defendant.

Order 16,
Rules 5 and 6.

Where the plaintiff does not appear, and the defendant does appear, and does not admit the plaintiff's claim the Court may award costs to the defendant as if the action had been tried, but no hearing fee shall be charged; and where a default summons has been issued and notice of defence has been given, and the defendant appears and the plaintiff does not appear, the action shall be struck out and costs ordered against the plaintiff, and where the plaintiff appears and the defendant does not, judgment may be entered for the plaintiff without further proof.

No order of judgment by default.

Order 18, Rule 3.

Certain orders need not be drawn up.

Order 18, Rule 5.

Form or order for payment.

Order 18, Rule 6.

Where judgment is entered up against a party served with a default summons no order need be drawn up or served.

Where the Court gives leave to take any proceeding, it shall not be necessary to draw up any order, nor shall any order be drawn up to warrant such proceeding.

Unless an order is made for payment forthwith, it shall be payable fourteen days from the date of the order unless the Court otherwise directs, and where it is for the payment of any sum of money by instalments, such instalments shall be payable at such periods as the Court shall order: and if no period be mentioned, the first shall become due on the twenty-eighth day from the day of making the order, and every successive instalment shall become due at a like period of twenty-eight days from the day of the previous instalments becoming due; and such instalments shall be paid into Court.

Notice of payments into Court.

Order 28, Rule 7.

When an order is made for payment by instalments or otherwise, the registrar shall give notice to the plaintiff by post, according to the form in the Schedule, of every payment made, provided that no notice shall be given where the payment does not exceed ten shillings.

Sale of personal property.

Order 18, Rule 15.

Where an order directs any personal property to be sold, the same shall be sold, under the superintendence of the high bailiff, by public auction, unless the Court shall otherwise direct.

Enforcement of order for payment of money.

Order 19, Rule 1.

Every order for the payment of money may be enforced in the same manner as a judgment for debt or damages is enforced under section 94 of the Country Courts Act, 1846; that is by execution against the goods of the party against whom the order is made.

Warrants of execution against the goods shall bear date on the day on which they are issued, and shall continue in force for twelve calendar months from such date and no longer.

Date of warrants of execution.
Order 19, Rule 2.
When default made execution may issue.
Order 19, Rule 3.

Where a defendant has made default in payment of the whole amount awarded by the judgment, or where the judgment was for payment by instalments, of an instalment thereof, a warrant of execution, without leave of the Court, may issue against his goods; and such execution shall be for the whole amount of the judgment and costs then remaining unsatisfied, unless in the case of instalments the Judge shall otherwise specially direct in each case.

No order of commitment under the Debtors Act, 1869, shall be made unless a summons to appear and be examined on oath, hereinafter called a judgment-summons, shall have been served personally upon the judgment-debtor.

Judgment summons to be served personally.
Order 19, Rule 6.
Form of judgment summons, &c.
Order 19, Rules 10 and 11.

Every judgment-summons shall be according to the form in the Schedule, and be issued not less than ten clear days, and be served not less than five clear days, before the day on which the judgment-debtor is required to appear,—except where the judgment-debtor is about to remove, or is keeping out of the way to avoid service, then the judgment-summons may be issued and served at any time before the hearing.

An order of commitment made under the Debtors Act, 1869, shall be according to the form in the Schedule, and shall, on whatever day it may be issued from the registrar's office, bear date on the day on which the order for commitment was made, and shall continue in force for one year from such date and no longer.

Form of order of commitment.
Order 19, Rule 22.

When an order of commitment for non-payment of money is issued, the defendant may, at any time before his body is delivered into the custody of the gaoler, pay to the bailiff the amount endorsed on the order as that, on payment of which, he may be discharged.

Payment on arrest.
Order 19, Rule 23.

The sum endorsed on the order of commitment, as that upon payment of which the prisoner may be discharged, may be paid into the Court from which the commitment order was issued, or to the gaoler in whose custody the prisoner is, or into the Foreign Court into which it has been re-issued under section 104 of the County Courts Act, 1846.

Payment in prison.
Order 19, Rule 24.

Costs on default of appearance of a judgment creditor.
Order 19, Rule 26.

Costs of enforcing a judgment.
Order 19, Rule 27.

Judgment by a married woman sued as a femme sole, how enforced.
Order 19, Rule 33.

Application for new trial.
Order 28, Rule 1.

If a judgment-debtor appears at the return day, but the judgment-creditor fails to appear, the Judge may award costs to the judgment-debtor.

All costs incurred by the plaintiff in endeavouring to procure or enforce an order or judgment shall be deemed to be due in pursuance of such order or judgment under section 5 of the Debtors Act, 1869, unless the Judge shall otherwise order.

When a female, sued as a single woman, obtains judgment on the ground of coverture, and is awarded costs, she may enforce payment of such costs in her own name.

An application for a new trial, or to set aside proceedings, may be made and determined on the return-day, if both parties be present, or such application may be made at the first Court holden next after the expiration of twelve clear days from such return-day; but the intending applicant must, seven clear days before the holding of such court, deliver to the registrar at his office, and also give to the opposite party by serving the same personally on such party, or by leaving the same at his place of abode or place of business a notice in writing, signed by himself or his solicitor, stating that such an application is intended to be made at such Court, and setting forth shortly the grounds of such intended application; but such notice shall not operate as a stay of proceedings unless the Judge shall otherwise order; and if any money paid into Court under any execution or order in the action shall not have been paid out, when such notice in writing shall be given to the registrar, the registrar shall retain the same to abide the event of such application, or until the Judge shall otherwise order; and if no such application be made, the money shall, if required, be paid over to the party in whose favour the order was made, unless the Judge shall otherwise order; and if such notice be not given in manner aforesaid, or such application be not made at the Court mentioned in the notice, no application for a new trial or to set aside proceedings shall be subsequently made, unless by leave of the Judge, and on such terms as he shall think fit.

New trial may

The Judge may, in his discretion, make it a condition of

granting a new trial, that it shall take place before a jury, although the former trial did not take place before a jury.

Where a plaintiff desires to set aside a nonsuit, he shall proceed within the same time, give the same notice, and be subject in all respects to the same conditions, and follow the same practice as though judgment had been given for the defendant.

Where a person desires to enter a plaint in a Court within the district of which he does not reside, he may, instead of attending in person or by agent at the Court, transmit, free of cost, to the registrar the following:—

(1.) A præcipe (writ or legal instrument) showing the name, address, and description of the plaintiff and defendants, the cause of action, and the amount claimed, and where the claim exceeds 40s., as many copies of the statement of particulars or cause of action as there are defendants, and an additional copy to file.

(2.) A post office order, for the fees payable upon the entry of the plaint, payable at the post office of the Court town.

(3.) An envelope addressed to himself, with a penny postage stamp thereon.

If in any cause, suit, or proceeding, any person having a right of appeal, which, as regards the objects of this work, is confined to actions in which the debt or damage sought to be recovered is above £20, is aggrieved by the ruling, order, direction, or decision of the Judge, he may at any time within eight days after the same has been made or given, appeal against such ruling, order, direction, or decision by motion to the Court at Westminster to which such appeal lies, instead of by special case. The motion is to be *ex parte* (i.e. by one side only) in the first instance, and will be granted on such terms, as to costs, security, or stay of proceedings as the Court to which such motion is made shall think fit.

Where such right does not exist, the Judge may allow an appeal if he thinks it reasonable and proper to do so; and any party dissatisfied with the judgment, order, or direction of the Court in point of law, or upon the admission or rejection of evidence, may, before the rising of the Court on the day on

be had before a jury.

Order 28, Rule 2.

Application to set aside nonsuit.

Order 28, Rule 3.

Entry of plaint by letter.

Order 37, Rule 6.

Appeal by motion. 38 & 39 Vict., c. 50. The County Courts Act, 1875.

The County Courts Act, 1867, 30 & 31 Vict., c. 142, s. 13.

Appeal by special case.

Order 29, Rule
1.

which judgment was pronounced, deliver to the registrar a statement in writing, signed by him, his counsel or solicitor, containing the grounds of his dissatisfaction. The party so dissatisfied may also appeal on grounds different from those contained in such statement, and, although he shall not have delivered any such statement.

Time for no-
tice.

Order 29, Rule
2.

Form of notice
Order 29, Rule
3.

Case to be pre-
sented to
Judge.

Order 29, Rule
5.

When parties
do not agree
Judge to settle
case.

Order 29, Rule
6.

Judgment of
Court of
Appeal.

Order 29, Rule
9.

The notice of appeal may be given within ten days exclusive of the day of trial. The notice of appeal must be in writing, and state the grounds of appeal, and be signed by the appellant, his solicitor or agent, and be sent to the registrar as well as to the successful party, by post or otherwise.

The appellant must also prepare the case for appeal, and present it to the Judge, unless he shall otherwise order, for signature at the Court held next after the parties have agreed upon the case; and if the Judge does not approve of the case submitted to him, or the parties cannot agree upon it, they are to appear before him to be heard as to the form of the case, when he will finally settle and sign it.

When the Court of Appeal has pronounced judgment, either party may deposit the same, or an office copy thereof, with the registrar of the County Court, and upon being so deposited such judgment shall be filed and may be enforced as if it had been made by the County Court.

In preparing the foregoing abstract all matter not germane to contracts of service, or of hiring, under the Employers and Workmen Act, 1875, have been excluded so as not to encumber this book with questions other than those within its scope, and the intentions of the writer.

These "Consolidated County Court Orders and Rules" are most elaborate and complete in every detail; and every kind of form is given in the Schedules, together with scales of costs, and fees, but, inasmuch as all forms are supplied by the Court, it is unnecessary to reproduce them here.

The object has been to give so much of these orders and rules as will enable the workman to understand them in their relation to the Employers and Workmen Act, and in so far as they may be applicable to the Trade Union Act.

CHAPTER VII.

CONSPIRACY, AND PROTECTION OF PROPERTY.

[38 & 39 VICT. CH. 86.]

ARRANGEMENT OF CLAUSES.

A.D. 1875.

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Conspiracy, and Protection of Property.

3. Amendment of law as to conspiracy in trade disputes.
4. Breach of contract by persons employed in supply of gas or water.
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21. Application to Ireland.

CHAPTER 86.

An Act for amending the Law relating to Conspiracy, and to the Protection of Property, and for other purposes.

[13th August, 1875.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act may be cited as the Conspiracy, and Protection of Property Act 1875.

Commencement of Act.

II. This Act shall come into operation on the first day of September one thousand eight hundred and seventy-five.

Conspiracy, and Protection of Property.

Amendment of law as to conspiracy in trade disputes.

III. An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime.

Nothing in this section shall exempt from punishment any

persons guilty of a conspiracy for which a punishment is A.D. 1875.
awarded by any Act of Parliament.

Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or sedition, or any offence against the State or the Sovereign.

A crime for the purposes of this section means an offence punishable on indictment or an offence which is punishable on summary conviction, and for the commission of which the offender is liable under the statute making the offence punishable to be imprisoned either absolutely or at the discretion of the court as an alternative for some other punishment.

Where a person is convicted of any such agreement or combination as aforesaid to do or procure to be done an act which is punishable only on summary conviction, and is sentenced to imprisonment, the imprisonment shall not exceed three months, or such longer time, if any, as may have been prescribed by the statute for the punishment of the said act when committed by one person.

IV. Where a person employed by a municipal authority or by any company or contractor upon whom is imposed by Act of Parliament the duty, or who have otherwise assumed the duty of supplying any city, borough, town, or place, or any part thereof, with gas or water, wilfully and maliciously breaks a contract of service with that authority or company or contractor, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the inhabitants of the city, borough, town, or place, or part, wholly or to a great extent of their supply of gas or water, he shall on conviction thereof by a court of summary jurisdiction or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding twenty pounds or to be imprisoned for a term not exceeding three months, with or without hard labour.

Breach of
contract by
persons
employed in
supply of gas
or water.

Every such municipal authority, company, or contractor as is mentioned in this section shall cause to be posted up, at the gasworks or waterworks, as the case may be, belonging to such authority or company or contractor, a printed copy of

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this section in some conspicuous place where the same may be conveniently read by the persons employed, and as often as such copy becomes defaced, obliterated, or destroyed, shall cause it to be renewed with all reasonable despatch.

If any municipal authority or company or contractor make default in complying with the provisions of this section in relation to such notice as aforesaid, they or he shall incur on summary conviction a penalty not exceeding five pounds for every day during which such default continues, and every person who unlawfully injures, defaces, or covers up any notice so posted up as aforesaid in pursuance of this Act, shall be liable on summary conviction to a penalty not exceeding forty shillings.

Breach of
contract
involving
injury to
persons or
property.

V. Where any person wilfully and maliciously breaks a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or cause serious bodily injury, or to expose valuable property, whether real or personal to destruction or serious injury, he shall on conviction thereof by a court of summary jurisdiction, or indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding twenty pounds, or to be imprisoned for a term not exceeding three months, with or without hard labour.

Miscellaneous.

Penalty for
neglect by
master to
provide food,
clothing, &c.,
for servant or
apprentice.

VI. Where a master, being legally liable to provide for his servant or apprentice necessary food, clothing, medical aid, or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, whereby the health of the servant or apprentice is or is likely to be seriously or permanently injured, he shall on summary conviction be liable either to pay a penalty not exceeding twenty pounds, or to be imprisoned for a term not exceeding six months, with or without hard labour.

Penalty for
intimidation
or annoyance
by violence or
otherwise.

VII. Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority,—

1. Uses violence to or intimidates such other person or his wife or children, or injures his property ; or,
2. Persistently follows such other person about from place to place ; or,
3. Hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof ; or,
4. Watches or besets the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such a house or place ; or,
5. Follows such other person with two or more other persons in a disorderly manner in or through any street or road,

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shall, on conviction thereof by a court of summary jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding twenty pounds, or to be imprisoned for a term not exceeding three months, with or without hard labour.

Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section.

VIII. Where in any Act relating to employer or workmen a pecuniary penalty is imposed in respect of any offence under such Act, and no power is given to reduce such penalty, the justices or court having jurisdiction in respect of such offence may, if they think it just so to do, impose by way of penalty in respect of such offence any sum not less than one fourth of the penalty imposed by such Act.

Reduction of penalties.

Legal Proceedings.

IX. Where a person is accused before a court of summary jurisdiction of any offence made punishable by this Act, and for which a penalty amounting to twenty pounds, or imprisonment, is imposed, the accused may, on appearing before the court of summary jurisdiction, declare that he objects to being tried for such offence by a court of summary jurisdiction.

Power for offender under this Act to be tried on indictment and not by court of summary jurisdiction.

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tion, and thereupon the court of summary jurisdiction may deal with the case in all respects as if the accused were charged with an indictable offence and not an offence punishable on summary conviction, and the offence may be prosecuted on indictment accordingly.

Proceedings
before court
of summary
jurisdiction.

X. Every offence under this Act which is made punishable on conviction by a court of summary jurisdiction or on summary conviction, and every penalty under this Act recoverable on summary conviction, may be prosecuted and recovered in manner provided by the Summary Jurisdiction Act.

Regulations
as to evidence.

XI. Provided, that upon the hearing and determining of any indictment or informations under section four, five, and six of this Act, the respective parties to the contract of service, their husbands or wives, shall be deemed and considered as competent witnesses.

Appeal to
quarter
sessions.

XII. In England or Ireland, if any party feels aggrieved by any conviction made by a court of summary jurisdiction on determining any information under this Act, the party so aggrieved may appeal therefrom, subject to the conditions and regulations following:

- (1.) The appeal shall be made to some court of general or quarter sessions for the county or place in which the cause of appeal has arisen, holden not less than fifteen days and not more than four months after the decision of the court from which the appeal is made:
- (2.) The appellant shall, within seven days after the cause of appeal has arisen, give notice to the other party and to the court of summary jurisdiction of his intention to appeal, and of the ground thereof:
- (3.) The appellant shall immediately after such notice enter into a recognizance before a justice of the peace, with or without sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court:
- (4.) Where the appellant is in custody the justice may, if he think fit, on the appellant entering into such recognizance as aforesaid, release him from custody:

- (5.) The court of appeal may adjourn the appeal, and upon A.D. 1875.
the hearing thereof they may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter to the court of summary jurisdiction with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just, and if the matter be remitted to the court of summary jurisdiction the said last-mentioned court shall thereupon re-hear and decide the information in accordance with the opinion of the said court of appeal. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just.

Definitions.

XIII. In this Act,—

The expression "the Summary Jurisdiction Act" means the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," inclusive of any Acts amending the same; and

General definitions:
"The Summary Jurisdiction Act."

The expression "court of summary jurisdiction" means—

"Court of summary jurisdiction."

- (1.) As respects the city of London, the Lord Mayor or any alderman of the said city sitting at the Mansion House or Guildhall justice room; and
- (2.) As respects any police court division in the Metropolitan police district, any Metropolitan police magistrate sitting at the police court for that division; and
- (3.) As respects any city, town, liberty, borough, place, or district for which a stipendiary magistrate is for the time being acting, such stipendiary magistrate sitting at a police court or other place appointed in that behalf; and
- (4.) Elsewhere, any justice or justices of the peace to whom jurisdiction is given by the Summary Jurisdiction Act: Provided that, as respects any case within the cognizance of such justice or justices as last

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aforesaid, an information under this Act shall be heard and determined by two or more justices of the peace in petty sessions sitting at some place appointed for holding petty sessions.

Nothing in this section contained shall restrict the jurisdiction of the Lord Mayor or any alderman of the city of London, or any metropolitan police or stipendiary magistrate, in respect of an act or jurisdiction which may now be done or exercised by him out of court.

Definitions of
"municipal
authority"
and "public
company."

XIV. The expression "municipal authority" in this Act means any of the following authorities, that is to say, the Metropolitan Board of Works, the Common Council of the city of London, the Commissioners of Sewers of the city of London, the town council of any borough for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and any Act amending the same, any commissioners, trustees, or other persons invested by any local Act of Parliament with powers of improving, cleansing, lighting, or paving any town, and any local board.

Any municipal authority or company or contractor who has obtained authority by or in pursuance of any general or local Act of Parliament to supply the streets of any city, borough, town, or place, or of any part thereof, with gas, or which is required by or in pursuance of any general or local Act of Parliament to supply water on demand to the inhabitants of any city, borough, town, or place, or any part thereof, shall for the purposes of this Act be deemed to be a municipal authority or company or contractor upon whom is imposed by Act of Parliament the duty of supplying such city, borough, town, or place, or part thereof, with gas or water.

"Maliciously" in
this Act
construed as
in Malicious
Injuries to
Property Act.

XV. The word "maliciously" used in reference to any offence under this Act shall be construed in the same manner as it is required by the fifty-eighth section of the Act relating to malicious injuries to property, that is to say, the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-seven, to be

construed in reference to any offence committed under such last-mentioned Act. A.D. 1875.

Saving Clause.

XVI. Nothing in this Act shall apply to seamen or to apprentices to the sea service. Saving as to sea service.

Repeal.

XVII. On and after the commencement of this Act, there shall be repealed :— Repeal of Acts

1. The Act of the session of the thirty-fourth and thirty-fifth years of the reign of Her present Majesty, chapter thirty-two, intituled "An Act to amend the Criminal Law relating to violence, threats, and molestation ;" and

2. "The Master and Servant Act, 1867," and the enactments specified in the First Schedule to that Act, with the exceptions following as to the enactments in such Schedule ; (that is to say,)

(1.) Except so much of sections one and two of the Act passed in the thirty-third year of the reign of King George the Third, chapter fifty-five, intituled "An Act to authorise justices of the peace to impose fines upon constables, overseers, and other peace or parish officers for neglect of duty, and on masters of apprentices for ill-usage of such their apprentice ; and also to make provision for the execution of warrants of distress granted by magistrates," as relates to constables, overseers, and other peace or parish officers ; and

(2.) Except so much of sections five and six of an Act passed in the fifty-ninth year of the reign of King George the Third, chapter ninety-two, intituled "An Act to enable justices of the peace in Ireland to act as such, in certain cases out of the limits of the counties in which they actually are ; to make provision for the execution of warrants of distress granted by them ; and to authorise them to impose fines upon constables and other officers for

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- neglect of duty, and on masters for ill-usage of their apprentices," as relates to constables and other peace or parish officers; and
- (3.) Except the Act of the session of the fifth and sixth years of the reign of her present Majesty, chapter seven, intituled "An Act to explain the Acts for the better regulation of certain apprentices;" and
- (4.) Except sub-sections one, two, three, and five of section sixteen of "The Summary Jurisdiction (Ireland) Act, 1851," relating to certain disputes between employers and the persons employed by them; and
8. Also there shall be repealed the following enactments making breaches of contract criminal, and relating to the recovery of wages by summary procedure; (that is to say,)
- (a.) An Act passed in the fifth year of the reign of Queen Elizabeth, chapter four, and intituled "An Act touching dyvers orders for artificers, labourers, servantes of husbandrye, and apprentices;" and
- (b.) So much of section two of an Act passed in the twelfth year of King George the First, chapter thirty-four, and intituled "An Act to prevent unlawful combination of workmen employed in the woollen manufactures, and for better payment of their wages," as relates to departing from service and quitting or returning work before it is finished; and
- (c.) Section twenty of an Act passed in the fifth year of King George the Third, chapter fifty-one, the title of which begins with the words "An Act for repealing several Laws relating to the manufacture of woollen cloth in the county of York," and ends with the words "for preserving the credit of the said manufacture at the foreign market;" and
- (d.) An Act passed in the nineteenth year of King George the Third, chapter forty nine, and intituled "An Act to prevent abuses in the payment of

wages to persons employed in the bore and thread lace manufactory ;" and A D. 1875.

- (e.) Sections eighteen and twenty-three of an Act passed in the session of the third and fourth years of Her present Majesty, chapter ninety-one, intituled "An Act for the more effectual prevention of frauds and abuses committed by weavers, sewers, and other persons employed in the linen, hempen, union, cotton, silk, and woollen manufactures in Ireland, and for the better payment of their wages, for one year, and from thence to the end of the next session of Parliament ;" and
- (f.) Section seventeen of an Act passed in the session of the sixth and seventh year of Her present Majesty, chapter forty, the title of which begins with the words "An Act to amend the Laws," and ends with the words "workmen engaged therein ;" and
- (g.) Section seven of an Act passed in the session of the eighth and ninth years of Her present Majesty, chapter one hundred and twenty-eight, and intituled "An Act to make further regulations respecting the tickets of work to be delivered to silk weavers in certain cases."

Provided that,—

- (1.) Any order for wages or further sum of compensation in addition to wages made in pursuance of section sixteen of "The Summary Jurisdiction (Ireland) Act, 1851," may be enforced in like manner as if it were an order made by a court of summary jurisdiction in pursuance of the Employers and Workmen Act, 1875, and not otherwise ; and
- (2.) The repeal enacted by this section shall not affect—
 - (a.) Anything duly done or suffered, or any right or liability acquired or incurred under any enactment hereby repealed ; or
 - (b.) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed ; or
 - (c.) Any investigation, legal proceeding, or remedy

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in respect of any such right, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this Act had not passed.

Application of Act to Scotland.

Application
to Scotland.

XVIII. This Act shall extend to Scotland, with the modifications following; that is to say,

Definitions.

- (1.) The expression "municipal authority" means the town council of any royal or parliamentary burgh, or the commissioners of police of any burgh, town or populous place under the provisions of the General Police and Improvement (Scotland) Act, 1862, or any local authority under the provisions of the Public Health (Scotland) Act, 1862:
- (2.) The expression "The Summary Jurisdiction Act" means the Summary Procedure Act, 1864, and any Acts amending the same:
- (3.) The expression "the court of summary jurisdiction" means the sheriff of the county or any one of his substitutes.

Recovery of
penalties, &c.,
in Scotland.

XIX. In Scotland the following provisions shall have effect in regard to the prosecution of offences, recovery of penalties, and making of orders under this Act:

- (1.) Every offence under this Act shall be prosecuted, every penalty recovered, and every order made at the instance of the Lord Advocate, or of the Procurator Fiscal of the sheriff court:
- (2.) The proceedings may be on indictment in the Court of Justiciary in Edinburgh or on circuit or in a sheriff court, or may be taken summarily in the sheriff court under the provisions of the Summary Procedure Act, 1864:
- (3.) Every person found liable on conviction to pay any penalty under this Act shall be liable, in default of payment within a time to be fixed in the conviction, to be imprisoned for a term, to be also fixed therein, not exceeding two months, or until such penalty shall

be sooner paid, and the conviction and warrant may be in the form of No. 3 of Schedule K of the Summary Procedure Act, 1854: A.D. 1875.

- (4.) In Scotland all penalties imposed in pursuance of this Act shall be paid to the clerk of the court imposing them, and shall by him be accounted for and paid to the Queen's and Lord Treasurer's Remembrancer, and be carried to the Consolidated Fund.

XX. In Scotland it shall be competent to any person to appeal against any order or conviction under this Act to the next circuit Court of Justiciary, or where there are no circuit courts to the High Court of Justiciary at Edinburgh, in the manner prescribed by and under the rules, limitation, conditions, and restrictions contained in the Act passed in the twentieth year of the reign of His Majesty King George the Second, chapter forty-three, in regard to appeals to circuit courts in matters criminal, as the same may be altered or amended by any Acts of Parliament for the time being in force. Appeal in Scotland as prescribed by 20 G. II. c. 43.

Application of Act to Ireland.

XXI. This Act shall extend to Ireland, with the modifications following; that is to say, Application to Ireland.

The expression "The Summary Jurisdiction Act" shall be construed to mean, as regards the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district; and elsewhere in Ireland, the Petty Sessions (Ireland) Act 1851, and any Acts amending the same:

The expression "court of summary jurisdiction" shall be construed to mean any justice or justices of the peace, or other magistrate to whom jurisdiction is given by the Summary Jurisdiction Act:

The court of summary jurisdiction, when hearing and determining complaints under this Act, shall in the police district of Dublin metropolis be constituted of one or more of the divisional justices of the said district, and elsewhere in Ireland of two or more justices of the

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—

peace in petty sessions sitting at a place appointed for holding petty sessions :

The expression " municipal authority " shall be construed to mean the town council of any borough for the time being, subject to the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and eight, entitled " An Act for the Regulation of Municipal Corporations in Ireland," and any commissioners invested by any general or local Act of Parliament, with power of improving, cleansing, lighting, or paving any town or township.

CHAPTER VIII.

THE TRADE UNION ACT, 1871.

A.D. 1871.

[34 & 35 VICT., CH. 31.]

An Act to amend the Law relating to Trades Unions.

[29th June, 1871.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

I. This Act may be cited as "The Trade Union Act, 1871." Short title.

Criminal Provisions.

II. The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful, so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise. Trade union not criminal.

III. The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust. Trade union not unlawful for civil purposes.

IV. Nothing in this Act shall enable any court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements, namely, Trade union contracts, when not enforceable.

1. Any agreement between members of a trade union as such, concerning the conditions on which any members for the time being of such trade union shall or shall not sell their goods, transact business, employ, or be employed:

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2. Any agreement for the payment by any person of any subscription or penalty to a trade union :
3. Any agreement for the application of the funds of a trade union,—
 - (a.) To provide benefits to members ; or,
 - (b.) To furnish contributions to any employer or workman not a member of such trade union in consideration of such employer or workman acting in conformity with the rules or resolutions of such trade union ; or,
 - (c.) To discharge any fine imposed upon any person by sentence of a court of justice ; or
4. Any agreement made between one trade union and another ; or,
5. Any bond to secure the performance of any of the above-mentioned agreements.

But nothing in this section shall be deemed to constitute any of the above-mentioned agreements unlawful.

Provisions of
18 & 19 Vict.
c. 63,
30 & 31 Vict.
c. 117,
25 & 26 Vict.
c. 89, &c.
not to apply
to trade
unions.

V. The following Acts, that is to say,

- (1.) The Friendly Societies Acts, 1855 and 1858, and the Acts amending the same ;
- (2.) The Industrial and Provident Societies Act, 1867, and any Act amending the same ; and
- (3.) The Companies Acts, 1862 and 1867,

shall not apply to any trade union, and the registration of any trade union under any of the said Acts shall be void, and the deposit of the rules of any trade union made under the Friendly Societies Acts, 1855 and 1858, and the Acts amending the same, before the passing of this Act, shall cease to be of any effect.

Registered Trade Unions.

Registry of
trade unions.

VI. Any seven or more members of a trade union may by subscribing their names to the rules of the union, and otherwise complying with the provisions of this Act with respect to registry, register such trade union under this Act, provided that if any one of the purposes of such trade union be unlawful such registration shall be void.

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VII. It shall be lawful for any trade union registered under this Act to purchase or take upon lease in the names of the trustees for the time being of such union any land not exceeding one acre, and to sell, exchange, mortgage, or let the same, and no purchaser, assignee, mortgagee, or tenant shall be bound to inquire whether the trustees have authority for any sale, exchange, mortgage, or letting, and the receipt of the trustees shall be a discharge for the money arising therefrom; and for the purpose of this section every branch of a trade union shall be considered a distinct union.

Buildings
for trade
unions may
be purchased
or leased.

VIII. All real and personal estate whatsoever belonging to any trade union registered under this Act shall be vested in the trustees for the time being of the trade union appointed as provided by this Act, for the use and benefit of such trade union and the members thereof, and the real or personal estate of any branch of a trade union shall be vested in the trustees of such branch, and be under the control of such trustees, their respective executors or administrators, according to their respective claims and interests, and upon the death or removal of any such trustees, the same shall vest in the succeeding trustees for the same estate and interest as the former trustees had therein, and subject to the same trusts, without any conveyance or assignment whatsoever, save and except in the case of stocks and securities in the public funds of Great Britain and Ireland, which shall be transferred into the names of such new trustees; and in all actions, or suits, or indictments, or summary proceedings before any court of summary jurisdiction, touching or concerning any such property, the same shall be stated to be the property of the person or persons for the time being holding the said office of trustee, in their proper names, as trustees of such trade union, without any further description.

Property of
the trade
unions vested
in trustees.

IX. The trustees of any trade union registered under this Act, or any other officer of such trade union who may be authorised so to do by the rules thereof, are hereby empowered to bring or defend, or cause to be brought or defended, any action, suit, prosecution, or complaint in any court of law or equity, touching or concerning the property, right, or claim

Actions, &c.,
by or against
trustees, &c.

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to property of the trade union; and shall and may, in all cases concerning the real or personal property of such trade union, sue and be sued, plead and be impleaded, in any court of law or equity, in their proper names, without other description than the title of their office; and no such action, suit, prosecution, or complaint shall be discontinued or shall abate by the death or removal from office of such persons or any of them, but the same shall and may be proceeded in by their successor or successors as if such death, resignation, or removal had not taken place; and such successors shall pay or receive the like costs as if the action, suit, prosecution, or complaint had been commenced in their names for the benefit of or to be reimbursed from the funds of such trade union, and the summons to be issued to such trustee or other officer may be served by leaving the same at the registered office of the trade union.

Limitation
of responsi-
bility of
trustees.

X. A trustee of any trade union registered under this Act shall not be liable to make good any deficiency which may arise or happen in the funds of such trade union, but shall be liable only for the moneys which shall be actually received by him on account of such trade union.

Treasurers,
&c., to
account.

XI. Every treasurer or other officer of a trade union registered under this Act, at such times as by the rules of such trade union he should render such account herein-after mentioned, or upon being required so to do, shall render to the trustees of the trade union, or to the members of such trade union, at a meeting of the trade union, a just and true account of all moneys received and paid by him since he last rendered the like account, and of the balance then remaining in his hands, and of all bonds or securities of such trade union, which account the said trustees shall cause to be audited by some fit and proper person or persons by them to be appointed; and such treasurer, if thereunto required, upon the said account being audited, shall forthwith hand over to the said trustees the balance which on such audit appears to be due from him, and shall also, if required, hand over to such trustees all securities and effects, books, papers, and property of the said trade union in his hands or custody; and if he fail to do so the trustees of the said trade union may sue such treasurer

in any competent court for the balance appearing to have A.D. 1871.
 been due from him upon the account last rendered by him,
 and for all the moneys since received by him on account of
 the said trade union, and for the securities and effects, books,
 papers, and property in his hands or custody, leaving him to
 set off in such action the sums, if any, which he may have
 since paid on account of the said trade union; and in such
 action the said trustees shall be entitled to recover their full
 costs of suit, to be taxed as between attorney and client.

XII. If any officer, member, or other person being or
 representing himself to be a member of a trade union regis- Punishment
for with-
holding
money, &c.
 tered under this Act, or the nominee, executor, administrator,
 or assignee of a member thereof, or any person whatsoever,
 by false representation or imposition obtain possession of any
 moneys, securities, books, papers, or other effects of such
 trade union, or, having the same in possession, wilfully
 withhold or fraudulently misapply the same, or wilfully apply
 any part of the same to purposes other than those expressed
 or directed in the rules of such trade union, or any part
 thereof, the court of summary jurisdiction for the place in
 which the registered office of the trade union is situate upon
 a complaint made by any person on behalf of such trade
 union, or by the registrar, or in Scotland at the instance of
 the procurator fiscal of the court to which such complaint is
 competently made, or of the trade union, with his concur-
 rence, may, by summary order, order such officer, member,
 or other person to deliver up all such moneys, securities,
 books, papers, or other effects to the trade union, or to repay
 the amount of money applied improperly, and to pay, if the
 court think fit, a further sum of money not exceeding
 twenty pounds, together with costs not exceeding twenty
 shillings; and, in default of such delivery of effects, or re-
 payment of such amount of money, or payment of such
 penalty and costs aforesaid, the said court may order the
 said person so convicted to be imprisoned, with or without
 hard labour, for any time not exceeding three months: Pro-
 vided, that nothing herein contained shall prevent the said
 trade union, or in Scotland Her Majesty's Advocate, from
 proceeding by indictment against the said party; provided

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also, that no person shall be proceeded against by indictment if a conviction shall have been previously obtained for the same offence under the provisions of this Act.

Registry of Trade Union.

Regulations
for registry.

XIII. With respect to the registry under this Act, of a trade union, and of the rules thereof, the following provisions shall have effect:

- (1.) An application to register the trade union and printed copies of the rules, together with a list of the titles and names of the officers, shall be sent to the registrar under this Act:
- (2.) The registrar, upon being satisfied that the trade union has complied with the regulations respecting registry in force under this Act, shall register such trade union and such rules:
- (3.) No trade union shall be registered under a name identical with that by which any other existing trade union has been registered, or so nearly resembling such name as to be likely to deceive the members or the public:
- (4.) Where a trade union applying to be registered has been in operation for more than a year before the date of such application, there shall be delivered to the registrar before the registry thereof a general statement of the receipts, funds, effects, and expenditure of such trade union in the same form, and showing the same particulars as if it were the annual general statement required as herein-after mentioned to be transmitted annually to the registrar:
- (5.) The registrar upon registering such trade union shall issue a certificate of registry, which certificate, unless proved to have been withdrawn or cancelled, shall be conclusive evidence that the regulations of this Act with respect to registry have been complied with:
- (6.) One of Her Majesty's Principal Secretaries of State may from time to time make regulations respecting registry under this Act, and respecting the seal (if

any) to be used for the purpose of such registry, and the inspection of documents kept by the registrar under this Act, and respecting the fees, if any, to be paid on registry, not exceeding the fees specified in the second schedule to this Act, and generally for carrying this Act into effect.

A.D. 1871.

XIV. With respect to the rules of a trade union registered under this Act, the following provisions shall have effect:

Rules of registered trade unions.

- (1.) The rules of every such trade union shall contain provisions in respect of the several matters mentioned in the first schedule to this Act :
- (2.) A copy of the rules shall be delivered by the trade union to every person on demand on payment of a sum not exceeding one shilling.

XV. Every trade union registered under this Act shall have a registered office to which all communication and notices may be addressed; if any trade union under this Act is in operation for seven days without having such an office, such trade union and every officer thereof shall incur a penalty not exceeding five pounds for every day during which it is so in operation.

Registered office of trade unions.

Notice of the situation of such registered office, and of any change therein, shall be given to the registrar and recorded by him: until such notice is given the trade union shall not be deemed to have complied with the provisions of this Act.

XVI. A general statement of the receipts, funds, effects, and expenditure of every trade union registered under this Act shall be transmitted to the registrar before the first day of June in every year, and shall show fully the assets and liabilities at the date, and the receipts and expenditure during the year preceding the date to which it is made out, of the trade union; and shall show separately the expenditure in respect of the several objects of the trade union, and shall be prepared and made out up to such date, in such form, and shall comprise such particulars, as the registrar may from time to time require; and every member of, and depositor in, any such trade union shall be entitled to receive, on application

Annual returns to be prepared as registrar may direct.

A.D. 1871.

to the treasurer or secretary of that trade union, a copy of such general statement, without making any payment for the same.

Together with such general statement there shall be sent to the registrar a copy of all alterations of rules and new rules and changes of officers made by the trade union during the year preceding the date up to which the general statement is made out, and a copy of the rules of the trade union as they exist at that date.

Every trade union which fails to comply with or acts in contravention of this section, and also every officer of the trade union so failing, shall each be liable to a penalty not exceeding five pounds for each offence.

Every person who wilfully makes or orders to be made any false entry in or any omission from any such general statement, or in or from the return of such copies of rules or alterations of rules, shall be liable to a penalty not exceeding fifty pounds for each offence.

Registrars.

XVII. The registrars of the friendly societies in England, Scotland, and Ireland shall be the registrars under this Act.

The registrars shall lay before Parliament annual reports with respect to the matters transacted by such registrars in pursuance of this Act.

Circulating
false copies
of rules, &c.,
a misde-
meanour.

XVIII. If any person with intent to mislead or defraud gives to any member of a trade union registered under this Act, or to any person intending or applying to become a member of such trade union, a copy of any rules or of any alterations or amendments of the same other than those respectively which exist for the time being, on the pretence that the same are the existing rules of such trade union, or that there are no other rules of such trade union, or if any person with the intent aforesaid gives a copy of any rules to any person on the pretence that such rules are the rules of a trade union registered under this Act which is not so registered, every person so offending shall be deemed guilty of a misdemeanour.

Legal Proceedings.

Summary
proceedings
for offences,
penalties, &c.

XIX. In England and Ireland all offences and penalties under this Act may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts.

In England and Ireland summary orders under this Act A.D. 1871.
may be made and enforced on complaint before a court of
summary jurisdiction in manner provided by The Summary
Jurisdiction Acts.

Provided as follows :

1. The " Court of Summary Jurisdiction," when hearing
and determining an information or complaint, shall be consti-
tuted in some one of the following manners ; that is to say,

(a.) In England,

(1.) In any place within the jurisdiction of a
metropolitan police magistrate or other sti-
pendiary magistrate, of such magistrate or
his substitute :

(2.) In the City of London, of the Lord Mayor or
any alderman of the said city :

(3.) In any other place, of two or more justices of
the peace sitting in petty sessions.

(b.) In Ireland,

(1.) In the police district of Dublin metropolis, of
a divisional justice :

(2.) In any other place, of a resident magistrate.

In Scotland all offences and penalties under this Act shall
be prosecuted and recovered by the procurator fiscal of the
county in the Sheriff Court, under the provisions of the
Summary Procedure Act, 1864.

In Scotland summary orders under this Act may be made
and enforced on complaint in the Sheriff Court.

All the jurisdictions, powers, and authorities necessary
for giving effect to these provisions relating to Scotland are
hereby conferred on the sheriffs and their substitutes.

Provided that in England, Scotland, and Ireland—

2. The description of any offence under this Act in the
words of such Act shall be sufficient in law.

3. Any exception, exemption, proviso, excuse, or qualifi-
cation, whether it does or not accompany the description of
the offence in this Act, may be proved by the defendant, but
need not be specified or negatived in the information, and if
so specified or negatived, no proof in relation to the matters
so specified or negatived shall be required on the part of the
informant or prosecutor.

A.D. 1871.

Appeal to
quarter
sessions.

XX. In England or Ireland, if any party feels aggrieved by any order or conviction made by a court of summary jurisdiction on determining any complaint or information under this Act, the party so aggrieved may appeal therefrom, subject to the conditions and regulations following:

- (1.) The appeal shall be made to some court of general or quarter sessions for the county or place in which the cause of appeal has arisen, holden not less than fifteen days and not more than four months after the decision of the court from which the appeal is made:
- (2.) The appellant shall, within seven days after the cause of appeal has arisen, give notice to the other party and to the court of summary jurisdiction of his intention to appeal, and of the ground thereof:
- (3.) The appellant shall immediately after such notice enter into a recognizance before a justice of the peace in the sum of ten pounds, with two sufficient sureties in the sum of ten pounds, conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court:
- (4.) Where the appellant is in custody the justice may, if he think fit on the appellant entering into such recognizance as aforesaid, release him from custody:
- (5.) The court of appeal may adjourn the appeal, and upon the hearing thereof they may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter to the court of summary jurisdiction with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just, and if the matter be remitted to the court of summary jurisdiction the said last-mentioned court shall thereupon re-hear and decide the information or complaint in accordance with the opinion of the said court of appeal. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just.

A.D. 1871.

XXI. In Scotland it shall be competent to any person to appeal against any order or conviction under this Act to the next Circuit Court of Justiciary, or where there are no Circuit Courts to the High Court of Justiciary at Edinburgh, in the manner prescribed by and under the rules, limitations, conditions, and restrictions contained in the Act passed in the twentieth year of the reign of His Majesty King George the Second, chapter forty-three, in regard to appeals to Circuit Courts in matters criminal, as the same may be altered or amended by any Acts of Parliament for the time being in force.

Appeal in
Scotland as
prescribed by
20 Geo. II.
c. 43.

All penalties imposed under the provisions of this Act in Scotland may be enforced in default of payment by imprisonment for a term to be specified in the summons or complaint, but not exceeding three calendar months.

All penalties imposed and recovered under the provisions of this Act in Scotland shall be paid to the sheriff clerk, and shall be accounted for and paid by him to the Queen's and Lord Treasurer's Remembrancer on behalf of the Crown.

XXII. A person who is a master, or father, son, or brother of a master, in the particular manufacture, trade, or business in or in connexion with which any offence under this Act is charged to have been committed shall not act as or as a member of a court of summary jurisdiction or appeal for the purposes of this Act.

Interested
person not
to act as a
member of
a court or
appeal.

Definitions.

XXIII. In this Act—

The term Summary Jurisdiction Acts means as follows:

As to England, the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," and any Acts amending the same:

As to Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police

Definitions.

As to the
term "Sum-
mary Juri-
sdiction
Acts."

A.D. 1871.

of such district, and elsewhere in Ireland, "The Petty Sessions (Ireland) Act, 1851," and any Act amending the same.

In Scotland the term "misdemeanour" means a crime and offence.

As to "trade union."

The term "trade union" means such combination, whether temporary or permanent, for regulating the relations between workmen and masters, or between workmen and workmen, or between masters and masters, or for imposing restrictive conditions on the conduct of any trade or business, as would, if this Act had not passed, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade: Provided that this Act shall not affect—

1. Any agreement between partners as to their own business;
2. Any agreement between an employer and those employed by him as to such employment;
3. Any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade, or handicraft.

Repeal.

Repeal of
Trades
Unions
Funds Pro-
tection Act
1869, as
herein stated.

XXIV. The Trades Unions Funds Protection Act, 1869, is hereby repealed.

Provided that this repeal shall not affect—

- (1.) Anything duly done or suffered under the said Act:
 - (2.) Any right or privilege acquired or any liability incurred under the said Act:
 - (3.) Any penalty, forfeiture, or other punishment incurred in respect of any offence against the said Act:
 - (4.) The institution of any investigation or legal proceeding or any other remedy for ascertaining, enforcing, recovering or imposing any such liability, penalty, forfeiture, or punishment as aforesaid.
-

SCHEDULES.

FIRST SCHEDULE.

A.D. 1871

*Of Matters to be provided for by the Rules of Trade Unions
Registered under this Act.*

1. The name of trade union and place of meeting for the business of the trade union.

2. The whole of the objects for which the trade union is to be established, the purposes for which the funds thereof shall be applicable, and the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member of such trade union.

Sec. 18 & 19
Vict. c. 63,
s. 25.

3. The manner of making, altering, amending, and rescinding rules.

4. A provision for the appointment and removal of a general committee of management, of a trustee or trustees, treasurer, and other officers.

5. A provision for the investment of the funds, and for an annual or periodical audit of accounts.

6. The inspection of the books and names of members of the trade union by every person having an interest in the funds of the trade union.

SECOND SCHEDULE.

Maximum Fees.

	£	s.	d.
For registering trade union	1	0	0
For registering alterations in rules	0	10	0
For inspection of documents	0	2	6

CHAPTER IX.

TRADE UNION ACT (1871) AMENDMENT
ACT (1876).

[39 & 40 VICT. CH. 22.]

ARRANGEMENT OF CLAUSES.

A.D. 1876. Clause.

1. Construction and short title.
2. Trade unions to be within s. 28 of Friendly Societies Act (1875).
3. Amendment of s. 8 of principal Act.
4. Provision in case of absence, &c., of trustee.
5. Jurisdiction in offences.
6. Registry of unions doing business in more than one country.
7. Life Assurance Companies Acts not to apply to registered unions.
8. Withdrawal or cancelling of certificate.
9. Membership of minors.
10. Nomination.
11. Change of name.
12. Amalgamation.
13. Registration of changes of names and amalgamations.
14. Dissolution.
15. Penalty for failure to give notice.
16. Definition of trade union altered.

CHAPTER 22.

A.D. 1876.

AN ACT TO AMEND THE TRADE UNION ACT, 1871.

Whereas it is expedient to amend the Trade Union Act, 1871 :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

§ I.—This Act and the Trade Union Act, 1871, herein-after termed the principal Act, shall be construed as one Act, and may be cited together as the "Trade Union Acts, 1871 and 1876," and this Act may be cited separately as the "Trade Union Act Amendment Act, 1876."

A.D. 1876.

Construction and short title.

§ II.—Notwithstanding anything in s. 5 of the principal Act contained, a trade union, whether registered or unregistered, which insures or pays money on the death of a child under ten years of age shall be deemed to be within the provisions of s. 28 of the Friendly Societies Act, 1875.

Trade unions to be within s. 28 of Friendly Societies Act (1875).

§ III.—Whereas by section eight of the principal Act it is enacted that "the real or personal estate of any branch of a trade union shall be vested in the trustees of such branch:" The said section shall be read and construed as if immediately after the herein-before recited words there were inserted the words "or of the trustees of the trade union, if the rules of the trade union so provide."

Amendment of s. 8 of principal Act. See Friendly Societies Act, 1875. s. 16 (3). See also s. 8, page 42 ante.

§ IV. When any person, being or having been a trustee of a trade union or of any branch of a trade union, and whether appointed before or after the legal establishment thereof, in whose name any stock belonging to such union or branch transferable at the Bank of England or Bank of Ireland is standing, either jointly with another or others, or solely, is absent from Great Britain, or Ireland respectively, or becomes bankrupt, or files any petition, or executes any deed for liquidation of his affairs by assignment or arrangement, or for composition with his creditors, or becomes a lunatic, or is dead, or has been removed from his office of trustee, or if it be unknown whether such person is living or dead, the registrar, on application in writing from the secretary and three members of the union or branch, and on proof satisfactory to him, may direct the transfer of the stock into the names of any other persons as trustees for the union or branch; and such transfer shall be made by the surviving or continuing trustees, and if there be no such trustee, or if such trustees refuse or be unable to make such transfer, and the registrar so direct, then by the Accountant-General or Deputy or Assistant Accountant-General of the Bank of England or Bank of Ireland, as the case may be; and the Governors and

Provision in case of absence, &c., of trustee. See Friendly Societies Act, 1875, s. 16(6). See also s. 8, page 44 ante.

A D. 1876.

Companies of the Bank of England and Bank of Ireland respectively are hereby indemnified for anything done by them or any of their officers in pursuance of this provision against any claim or demand of any person injuriously affected thereby.

Jurisdiction
in offences a.
See Friendly
Societies
Act, 1875, .
s. 33 (1).
See also s 12,
page 46 ante,
and also page
63.

§ V.—The jurisdiction conferred in the case of certain, offences by section twelve of the principal Act upon the court of summary jurisdiction for the place in which the registered office of a trade union is situate may be exercised either by that court or by the court of summary jurisdiction for the place where the offence has been committed.

Registry of
unions doing
business in
more than
one country.
See Friendly
Societies
Act, 1875,
s. 11 (6).
See also s. 13,
page 49 ante,
and also page
63.

§ VI.—Trade unions carrying or intending to carry on business in more than one country shall be registered in the country in which their registered office is situate; but copies of the rules of such unions, and of all amendments of the same shall, when registered, be sent to the registrar of each of the other countries, to be recorded by him, and until such rules be so recorded the union shall not be entitled to any of the privileges of this Act or the principal Act in the country in which such rules have not been recorded, and until such amendments of rules be recorded the same shall not take effect in such country.

In this section "country" means England, Scotland, or Ireland.

Life Assur-
ance Com-
panies Acts
not to apply
to registered
unions.
See Life
Assurance
Companies
Act, 1870,
s. 2.
See also page
63.

§ VII.—Whereas by the "Life Assurance Companies Act, 1870," it is provided that the said Act shall not apply to societies registered under the Acts relating to Friendly Societies: The said Act (or the amending Acts) shall not apply nor be deemed to have applied to trade unions registered or to be registered under the principal Act.

Withdrawal
or can-elling
of certificate.
See page C1
ante.

§ VIII.—No certificate of registration of a trade union shall be withdrawn or cancelled otherwise than by the Chief Registrar of Friendly Societies or in the case of trade unions registered and doing business exclusively in Scotland or Ireland by the Assistant-Registrar for Scotland or Ireland, and in the following cases:—

(1.) At the request of the trade union to be evidenced in such manner as such Chief or Assistant-Registrar shall from time to time direct.

(2.) On proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that the registration of the trade union has become void under s. 6 of the Trade Union Act (1871), or that such trade union has wilfully and after notice from a registrar whom it may concern violated any of the provisions of the Trade Union Acts or has ceased to exist.

Not less than two months previous notice in writing, specifying briefly the ground of any proposed withdrawal or cancelling of certificate (unless where the same is shewn to have become void as aforesaid, in which case it shall be the duty of the Chief or Assistant-Registrar to cancel the same forthwith) shall be given by the Chief or Assistant-Registrar to a trade union before the certificate of registration of the same can be withdrawn or cancelled (except at its request).

A trade union whose certificate of registration has been withdrawn or cancelled shall from the time of such withdrawal or cancelling absolutely cease to enjoy as such the privileges of a registered trade union, but without prejudice to any liability actually incurred by such trade union, which may be enforced against the same as if such withdrawal or cancelling had not taken place.

§ IX.—A person under the age of twenty-one, but above the age of sixteen, may be a member of a trade union, unless provision be made in the rules thereof to the contrary, and may, subject to the rules of the trade union, enjoy all the rights of a member except as herein provided, and execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the committee of management, trustee, or treasurer of the trade union.

Membership
of miners.
See page 64
ante.

§ X.—A member of a trade union not being under the age of sixteen years may, by writing under his hand, delivered at, or sent to, the registered office of the trade union, nominate any person not being an officer or servant of the trade union (unless such officer or servant is the husband, wife, father, mother, child, brother, sister, nephew, or niece of the nominator), to whom any moneys payable on the death of such member not exceeding £50 shall be paid at his decease, and

Nomination.
See s. 5, page
37 ante. See
also page 64.

A. D. 1876.

may from time to time revoke or vary such nomination by a writing under his hand similarly delivered or sent, and on receiving satisfactory proof of the death of a nominator, the trade union shall pay to the nominee the amount due to the deceased member not exceeding the sum aforesaid.

Change of
name.
See page 56
ante.

§ XI.—A trade union may, with the approval in writing of the Chief Registrar of Friendly Societies, or in the case of trade unions registered and doing business exclusively in Scotland or Ireland, of the Assistant-Registrar for Scotland or Ireland respectively, change its name by the consent of not less than two-thirds of the total number of members.

No change of name shall affect any right or obligation of the trade union or of any member thereof, and any pending legal proceedings may be continued by or against the trustees of the trade union or any other officer who may sue or be sued on behalf of such trade union notwithstanding its new name.

Amalgama-
tion.
See pages 56
and 57 ante.

§ XII.—Any two or more trade unions may, by the consent of not less than two-thirds of the members of each or every such trade union, become amalgamated together as one trade union, with or without any dissolution or division of the funds of such trade unions, or either or any of them; but no amalgamation shall prejudice any right of a creditor of either or any union party thereto.

Registration
of changes of
names and
amalgama-
tions.
See page 57
ante.

§ XIII.—Notice in writing of every change of name or amalgamation signed, in the case of a change of name, by seven members, and countersigned by the secretary of the trade union changing its name, and accompanied by a statutory declaration by such secretary that the provisions of this Act in respect of changes of name have been complied with, and in the case of an amalgamation signed by seven members and countersigned by the secretary of each or every union party thereto, and accompanied by a statutory declaration by each or every such secretary that the provisions of this Act in respect of amalgamations have been complied with, shall be sent to the Central Office established by the Friendly Societies Act, 1875, and registered there, and until such change of name or amalgamation is so registered the same shall not take effect.

§ XIV.—The rules of every trade union shall provide for the manner of dissolving the same, and notice of every dissolution of a trade union under the hand of the secretary, and seven members of the same, shall be sent within fourteen days thereafter to the Central Office, hereinbefore mentioned, or, in the case of trade unions registered and doing business exclusively in Scotland or Ireland, to the Assistant-Registrar for Scotland or Ireland respectively, and shall be registered by them. Provided that the rules of any trade union registered before the passing of this Act shall not be invalidated by the absence of a provision for dissolution.

A.D. 1876.

Dissolution.
See page 67
ante.

§ XV.—A trade union which fails to give any notice or send any document which it is required by this Act to give or send, and every officer or other person bound by the rules thereof to give or send the same, or if there be no such officer, then every member of the committee of management of the union unless proved to have been ignorant of, or to have attempted to prevent the omission to give or send the same, is liable to a penalty of not less than £1 and not more than £5, recoverable at the suit of the Chief or any Assistant-Registrar of Friendly Societies, or of any person aggrieved; and to an additional penalty of the like amount for each week during which the omission continues.

Penalty for
failure to
give notice.
See page 53
ante.

§ XVI.—So much of s. 23 of the principal Act, as defines the term trade union, except the proviso qualifying such definition, is hereby repealed, and in lieu thereof be it enacted as follows:—

Definition of
trade union
altered.
See definition
of a trade
union, pages
33 and 34.

The term "trade union" means any combination, whether temporary or permanent, for regulating the relations between workmen and masters, or between workmen and workmen, or between masters and masters, or for imposing restrictive conditions on the conduct of any trade or business, whether such combination would or would not, if the principal Act had not been passed, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade.

CHAPTER X.

TRADE UNION ACT, 1871.

[34 & 35 VICT., CH. 31.]

RULES AND FORMS.

In pursuance of the powers vested in me by the above mentioned Act, I, the Right Honorable HENRY AUSTIN BRUCE, one of Her Majesty's Principal Secretaries of State, make the following regulations :—

(1). The Registrar shall not register a Trade Union under a name identical with that of any other existing Trade Union known to him, whether registered or not registered, or so nearly resembling such name as to be likely to deceive the members or the public.

(2). Upon an application for the registration of a Trade Union which is already in operation, the Registrar, if he has reason to believe that the applicants have not been duly authorized by such Trade Union to make the same, may, for the purpose of ascertaining the fact, require from the applicants such evidence as may seem to him necessary.

(3). Application for registry shall be made in the form subjoined to these Regulations.

(4). All documents transmitted to the Registrar relating to any Registered Trade Union shall be open to inspection of any person on payment of one shilling.

(5). The Certificate of Registry shall be delivered to the applicant on payment of one pound.

(Signed) H. A. BRUCE.

WHITEHALL,

8th December, 1871.

In pursuance of the powers vested in me by the above mentioned Act, I, the Right Honorable ROBERT LOWE, one of Her Majesty's Principal Secretaries of State, make the following Regulations with respect to the registration of alterations of rules of a Trade Union :—

1. An application may be made at any time on behalf of a Trade Union to the Registrar for the registration of an alteration of rules.

2. The alteration to be registered may be either:—

A partial alteration, consisting of a new rule or rules to be added to the registered rules or to be substituted for any of the registered rules;

or, a complete alteration, consisting of an entire set of rules to be substituted for the set of registered rules.

3. An application for the registration of a partial alteration of rules must be in the Form M, annexed hereto, and must be accompanied—

(a) By a statutory declaration (in Form Q, annexed hereto) of an officer of the Trade Union to the effect that in making the alteration of rules submitted for registration, the rules of the Trade Union have been duly complied with; and

(b) By two copies of the new rule or rules proposed to be added, or as the case may be, by two copies of the new rule or rules proposed to be substituted, and two copies of the old rules in the place of which such substitution is to be made. Each copy of the new rules must be marked O, and signed by the applicants.

The Registrar, before registering the new rule or rules to be added or substituted, as the case may be, shall ascertain that the rules of the Trade Union, if altered in accordance with the proposed partial alteration, will provide for all the matters required by the above mentioned Act, to be provided for by the rules of a registered Trade Union.

The Certificate of Registry of a partial alteration shall be in Form N annexed hereto, and shall be delivered to the applicants, attached to one of the copies of the new rule or rules, on payment of 10s.

4. An application for the registration of a complete alteration of rules must be in the Form X, annexed hereto, and must be accompanied—

(a) By a statutory declaration in Form Q, annexed hereto, of an officer of the Trade Union to the effect that, in making the alteration of rules submitted for registration the rules of the Trade Union have been duly complied with; and,

(b) By two copies of the new set of rules. Each copy must be printed, and be marked P, and signed by the applicants.

The Registrar, before registering the new set of rules, shall ascertain that the new set of rules provides for all the matters which, by the above mentioned Act, are to be provided for by the rules of a registered Trade Union.

The Certificate of Registry of a complete alteration of rules shall be

in the Form Y annexed hereto, and shall be delivered to the applicants, attached to one of the copies of the new set of rules, on payment of 10s.

R. LOWE,
*One of Her Majesty's Principal
 Secretaries of State.*

WHITEHALL,
 18th August, 1873.

Form of Application for Registry.

1. This application is made by the seven persons whose names are subscribers at the foot hereof.

2. The name under which it is proposed that the Trade Union on behalf of which this application is made shall be registered, is

as set forth in Rule No.

To the best of our belief there is no other existing Trade Union, whether registered or not registered, the name of which is identical with the proposed name or so nearly resembles the same as to cause confusion.

Name of
 Trade Union.

3. The place of meeting for the business of the
 and the office to which all communications and
 notices may be addressed, is at

as set forth in Rule No.

Name of
 Trade Union.

4. The
 established on the day of was

Name of
 Trade Union.

5. The whole of the objects for which the
 is established and the purposes for which the
 funds thereof are applicable are set forth in Rule No.

6. The conditions under which members may become entitled to benefits assured are set forth in Rule No.

7. The fines and forfeitures to be imposed on members are set forth in Rule No.

8. The manner of making, altering, amending, and rescinding rules is set forth in Rule No.

9. The provision for the appointment and removal of a general committee of management, of trustee or trustees, treasurer and other officers, is set forth in Rule No.

10. The provision for the investment of funds and for the periodical audit of accounts, is set forth in Rule No.

11. The provision for the inspection of the books and names of the members by every person having an interest in the funds is set forth in Rule No.

12. Accompanying this application are sent—

1. Two printed copies, each marked A, of the Rules.

2. A list, marked B, of the titles and names of the officers.

3. A general statement, marked C¹, showing—

(a) The assets and liabilities of the²

at the date up to which the statement

is made out.

(b) The receipts and expenditure of

during the year preceding the date up to which the statement is made out, such expenditure being set forth under separate heads corresponding to the several objects of the Trade Union.

13. We have been duly authorized by the Trade Union to make this application on its behalf, such authorization consisting of

(Signed)

1
2
3
4
5
6
7

day of

18

* In paragraph 13 must be stated whether the authority to make this application was given by "a resolution of a general meeting of the trade union," or, if not, in what other way it was given.

The two copies of rules must be signed by the seven members signing this application.

The application should be *dated*, and forwarded to "The Registrar of Friendly Societies, 28, Abingdon Street, Westminster, S.W."

1. This will only be necessary in case where the Trade Union has been in operation more than a year previous to the date of the application.

2. Name of Trade Union. Name of Trade Union. This date will be fixed by the Registrar. This will only be necessary where the Trade Union has been in operation before the date of the application.

FORM M.

Form of application for registry of partial alteration of rules.

_____ Trade Union. Register No. _____

1. This application is for the registry of a partial alteration of the rules of the Trade Union, and is made by the seven persons whose names are subscribed at the foot hereof.

2. The partial alteration submitted for registration consists of the addition of the rule or rules, two copies whereof accompany this application, (each copy being marked O and signed by the applicants), in addition to the rules already registered

or,

the substitution of the rule [or rules], two copies whereof accompany this application (each copy being marked O and signed by the applicants) for No. _____ and No. _____ of the rules already registered.

3. This application is accompanied by a statutory declaration of _____ an officer of this Trade Union, to the effect that in making the alteration of rules now submitted for registration the rules of the _____ Trade Union were duly complied with.

4. We have been duly authorised by the _____ Trade Union to make this application on its behalf, such authorization consisting of a resolution passed at a general meeting on the _____ day of*

* Here insert the date, or, if there was no such resolution, state in what other way the authorization was given.

(Signed) 1
2
3
4
5
6
7

day of

18

Here insert the date.

To

The Registrar of Friendly Societies,
Abingdon Street,
Westminster.

FORM N.

____ Trade Union.

Register No. _____

Certificate of registry of partial alteration of rules.

I hereby certify that the rules, copy whereof is appended hereto, have been registered under the above mentioned Act in addition to the rules already registered [or in substitution for No. _____ and No. _____ of the rules already registered] for the _____ Trade Union.

(Signed)

Registrar of Friendly Societies in England.
day of _____

FORM Q.

____ Trade Union.

Register No. _____

I,

of

the clerk [or secretary of one of the officers] of the above mentioned Trade Union do solemnly and sincerely declare that in making the alterations of the rules of the said Trade Union, the application for the registration of which is appended to this declaration, the rules of the said Trade Union have been duly complied with.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the fifth and sixth years of the reign of his late Majesty King William the Fourth, intituled, "An Act to repeal an Act of the present Session of Parliament, intituled 'An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra judicial oaths and affidavits; and to make other provisions for the abolition of unnecessary oaths.' "

FORM X.

_____ Trade Union. Register No. _____

Form of application for registry of complete alteration of rules.

1. This is an application for the registration of a complete alteration of the registered rules of the _____ Trade Union, and is made by the seven persons whose names are subscribed at the foot hereof.

2. The complete alteration submitted for registration is the substitution of the set of rules, two printed copies of which (each copy marked P and signed by the applicants) accompany this application, for the set of rules already registered.

3. The name under which it is proposed that the Trade Union, on behalf of which this application is made, shall be registered, is _____ as set forth in rule No. _____

To the best of our belief there is no other existing Trade Union, whether registered or not registered, the name of which is identical with the proposed name or so nearly resembles the same as to cause confusion.

Name of
Trade Union.

4. The place of meeting for the business of the _____ and the office to which all communications and notices may be addressed is at _____ as set forth in rule No. _____

Name of
Trade Union.

5. The _____ was established on _____ the _____ day of _____

Name of
Trade Union.

6. The whole of the objects for which the _____ is established and the purposes for which the funds thereof are applicable are set forth in rule No. _____

7. The conditions under which members may become entitled to benefits assured are set forth in rule No. _____

8. The fines and forfeitures to be imposed on members are set forth in Rule No. _____

9. The manner of making, altering, amending, and rescinding rules is set forth in Rule No. _____

10. The provision for the appointment and removal of a general committee of management, of trustee or trustees, treasurer, and other officers is set forth in Rule No. _____

11. The provision for the investment of funds and for the periodical audit of accounts is set forth in Rule No. _____

12. The provision for the inspection of the books and _____

names of the members by every person having an interest in the funds is set forth in Rule No.

13. This application is accompanied by a statutory declaration of _____ an officer of the said Trade Union, to the effect that in making the alteration of rules now submitted for registration the rules of the Trade Union were duly complied with.

14. We have been duly authorised by the _____ Trade Union to make this application on its behalf, such authorization consisting of a resolution passed at a general meeting held on the _____ day of*

(Signed) 1
 2
 3
 4
 5
 6
 7

* Here insert the date, or, if there was no such resolution, state in what other way authorization was given.

The Registrar of Friendly Societies,
28, Abingdon Street, Westminster, S.W.
day of 18

FORM Y.

_____ Trade Union. Register No. _____

Certificate of registry of complete alteration of rules.

I hereby certify that the set of rules, copy whereof is appended hereto, has been registered under the above mentioned Act in substitution for the set of rules already registered for the _____ Trade Union.

(Signed) Registrar of Friendly Societies in England.
 day of 18

Reg. No. REGISTRAR OF FRIENDLY SOCIETIES,
 28, ABINGDON STREET, S.W.,
 London, _____ 187

SIR,

I have to call your attention to the provisions of 34 and 35 Vict., cap. 31, s. 16, which are as follows:—

16. "A general statement of the receipts, funds, effects, and expenditure of every trade union registered under this Act

shall be transmitted to the registrar *before the 1st day of June in every year*, and shall show fully the assets and liabilities at the date, and the receipts and expenditure during the year preceeding the date to which it is made out, of the trade union; and shall show separately the expenditure in respect of the several objects of the trade union, and shall be prepared and made out up to such date, in such form, and shall comprise such particulars, as the registrar may from time to time require, and every member of, and depositor in, any such trade union shall be entitled to receive, on application to the treasurer or secretary of that trade union, a copy of such general statement, without making any payment for the same.

“Together with such general statement there shall be sent to the registrar a copy of all alterations of rules and new rules and changes of officers made by the trade union during the year preceeding the date up to which the general statement is made out, and a copy of the rules of the trade union as they exist at that date.

“*Every trade union which fails to comply with or acts in contravention of this section*, AND ALSO EVERY OFFICER OF THE TRADE UNION SO FAILING, shall each be liable to a *penalty not exceeding FIVE POUNDS* for each offence.

“Every person who wilfully makes or orders to be made any false entry in or any omission from any such general statement, or in or from the return of such copies of rules or alterations of rules, shall be liable to a penalty not exceeding fifty pounds for each offence.”

As the

has not yet made the prescribed return, I have to request that it may be furnished to me FORTHWITH, so as to relieve me from the necessity of instituting proceedings under the above section.

It is no part of my duty to send this notice, having long ago furnished the trade union with the forms necessary to enable them to comply with the Act, but I do so to give them a further opportunity of avoiding the penalty.

I am,

SIR,

Your obedient Servant,

The following forms of rules are prepared by the Registrar of Friendly Societies in England, for the purposes of assisting trades unions in complying with the Provisions of the Act. The blanks may be filled up with such numbers as the trade union decide upon.

No. I.

1. NAME AND PLACE OF MEETING FOR BUSINESS.

The name of the trade union is . The business thereof shall be carried on at in the county of . Notice of the situation of the Registered Office, and of any change therein, shall be given to the Registrar, and recorded by him (sec. 15).

2. OBJECTS OF THE TRADE UNION.

This trade union is established for the following objects, viz.:—(*Here set forth the whole of the objects for which the trade union is to be established.*)

All monies received by the trade union on any account whatever, shall be applied to carrying out the foregoing objects according to these Rules. Any officer misapplying the Funds shall repay the same, and be excluded. (*Here set forth the conditions under which any member may become entitled to any benefit assured, and the fines and forfeitures to be imposed on any member. Notice should be taken that by sec. 6 of this Act, it is provided that if any one of the purposes of a Trade Union be unlawful, its registration shall be void.*)

3. MANNER OF MAKING, ALTERING, AND AMENDING RULES.

No new rule shall be made nor any of the rules herein contained or hereafter to be made, shall be amended, altered, or rescinded, unless with the consent of a majority of the members present at a general meeting specially called for that purpose.

4. APPOINTMENT AND REMOVAL OF OFFICERS.

The officers whose titles and names are set forth in the schedule to these rules shall be the first officers of the Trade Union (*or in the case of*

a Trade Union already in operation), are the present officers of the Trade Union.

The general committee of management shall consist of members.

The Trustees shall continue in office during the pleasure of the members, and be removable at a general meeting, and in the case of a vacancy or vacancies, another or others shall be elected by a majority of members at a meeting called for that purpose. The treasurer, secretary, and committee of management shall all continue in office until the general annual meeting, unless previously removed by a resolution of the major part of the members present at any meeting called for that purpose; and at every annual meeting a treasurer, committee, and other officers, shall be appointed for the ensuing year, or in failure thereof the officers last appointed shall be considered as again appointed; and in case any officer, other than a trustee, shall die or be removed prior to such annual meeting, the committee of management shall appoint a person to fill up the vacancy.

The treasurer shall, in the month of in every year, and also when required by the trustee or a majority of the trustees, render to the trustees a true account of all monies received and paid by him on account of the Trade Union; and shall also, when required by a majority of the trustees, pay over all monies remaining in his hands, and assign and deliver all securities and effects, books, papers, and property of or belonging to the Trade Union in his hands or custody to the trustees.

5. INVESTMENT OF FUNDS AND AUDIT OF ACCOUNTS.

So much of the funds of the Trade Union as may not be wanted for immediate use or to meet the usual accruing liabilities shall, with the consent of the committee of management, be invested by the trustees in such of the following ways as the committee shall direct, viz., in the public funds, or upon Government or real securities in Great Britain or Ireland, or upon debentures, mortgages, or securities of any company incorporated by charter or Act of Parliament, and paying a dividend, or upon the security of any county, borough, or other rates authorized to be levied and mortgaged by Act of Parliament.

The committee shall cause the accounts of the Trade Union to be regularly entered in proper books, and shall cause a statement of the accounts, with all necessary vouchers up to the end of the months of June and December in each year, to be made out and laid before two auditors, to be chosen by the members at the quarterly meeting held next before each yearly meeting, and shall lay before each such meeting a balance-

sheet signed by the auditors, showing the assets and liabilities, and receipts and expenditure of the Trade Union, showing separately the expenditure in respect to the several objects of the Trade Union, and made out in the form required by the Registrar. And the auditors shall make to such a meeting a report upon the balance-sheet so laid before them, and in case they do not adopt the same, or any part thereof, shall specially report thereon to such meeting. Every member shall be entitled to a copy of such statement and report without making any payment for the same. (sec. 16.)

6. INSPECTION OF BOOKS AND NAMES OF MEMBERS.

The books and accounts of the Trade Union, and the list of the names of the members shall be open to the inspection of every person having an interest in the funds of the Trade Union, at all reasonable times.

SCHEDULE TO THE FOREGOING RULES.

List of the Officers of the Trade Union.

Title of Officers.	Names of Officers (in full).

FORM OF APPLICATION FOR REGISTRY (to follow the Rules in both the copies sent).

To the Registrar of Friendly Societies in

The undersigned request you to register the
Trade Union Act, 1871.

under th

} To be signed by 7
or more members of
the Trade Union.

[Where the Trade Union has been in operation for more than a year before the date of the application for Registry, it must be accompanied with a general statement of the receipts, funds, effects and expenditure in Form No. 2.]

GENERAL STATEMENT of the Receipts, Funds, Effects, and Expenditure of the TRADE
UNION, held at _____ in the County of _____ from 1st January to 31st December, 18 ____
Cr.

Reg. No. _____ Dr.

RECEIPTS.		EXPENDITURE.	
18 1st Jan. to 31st Dec.	£ s. d.	18 1st Jan. to 31st Dec.	£ s. d.
To Balance in Treasurer's hands on 1st January, 18		By Stationery and Printing	
Fines		Salaries of Paid Officers (specifying them)	
Entrance Fees		Other necessary Expenses of Management	
Contributions paid by Members for. (Here set forth each of the objects of the trade union severally.)		Allowance for _____ to _____	
Contributions paid by Members for Expenses of Management		Members	
Interest received during the year on the Funds invested		(Here set forth under the several heads of Benefit assured by the trade union, the number of Claimants for each, and the amount paid.)	
	£	Investments made during the Year... Balance in Treasurer's hands on 31st December, 187	£

A STATEMENT OF THE ASSETS AND LIABILITIES OF THE		TRADE UNION	
18 1st Jan. to 31st Dec.	£ s. d.	18 1st Jan. to 31st Dec.	£ s. d.
Dr. To amount of the several Funds for Benefits, viz. :—		Cr. By Money in Public Funds	
(Here set forth separately the Amount of each of the Funds for Benefits.)		By Government Securities	
To Amount of the Management Fund	£	By Real Securities	
		By other Investments (if any, specifying them)	£

Number of Members of the Trade Union {
on the 31st December, 18 ____ .. }

Auditors. {

Trustees. {

No. III.

Reg. No. _____

Name of Trade Union _____

Annual Return of Alterations of Rules and New Rules for the year
ending 31st December, 18 .

Date of Alteration or making of Rule.	Words of Rule <i>previous</i> to Alteration.	Words of Rule as altered, or of New Rule.

} *Trustees.*

NOTE.—With the Annual Return must be furnished a copy of Rules as they exist at the date of the Return.

The Return of alterations may be made on as many sheets of foolscap as necessary.

Regulations have been made by the Secretary of State for the REGISTRATION of Alterations of Rules.

No. IV.

Reg. No. _____

Name of Trade Union _____

Annual Return of Change of Officers for the year ending 31st December,
18 .

Date of change.	Title of Officer.	Name of Officer retiring.	Cause of Re- tirement.	Name of Officer appointed.

} *Trustees.*
M

No. V.

Form of notice of situation of Registered Office (pursuant to sec. 15 of Trade Union Act, 1871).

REGISTER No.

To the Registrar of Friendly Societies in England.

Notice is hereby given that the Registered Office of the _____
is situated at _____ in the Parish of _____
in the County of _____.

(Add in case of a change) :—

Having been removed from _____ in the Parish of _____

Dated this _____ day of _____ 18____.

} Trustees.

NOTE.—Until this notice has been given, the trade union will not have complied with the provisions of the Act.

No. VI.

NOTICE OF REFUSAL TO REGISTER.

FRIENDLY SOCIETIES REGISTRATION OFFICE,

28, ABINGDON STREET, S.W.,

LONDON _____ 18____

TRADE UNION ACT, 1871.

The accompanying documents are returned UNREGISTERED, for the following reason :—

Registrar,
(or Assistant Registrar).

CHAPTER XI.

LARCENY AND EMBEZZLEMENT.

[31 & 32 Vict., CH. 116].

This Act, commonly known as the Recorder's Act, or Russell Gurney's Act, is frequently referred to, and often put in force, in connection with trade unions, because, under its provisions, apart from the Trade Union Act, it gives security to the funds, and other property, of trades unions, inasmuch as the officers and members of these unions can be prosecuted and punished for embezzlement, and misappropriation of funds, and for withholding books, or other property, belonging to the society of which they are co-partners.

The Recorder's Act.

Protection of property of trade unions.

The Act is a good and useful one, and should be more generally understood; but it must always be remembered that it is a Criminal Act, and consequently that there is no provision for fine in lieu of imprisonment, or for the restoration of the funds or other property as in the Trade Union Act, 1871.

It is a criminal Act.

The provisions of this Act, therefore, should never be invoked except in cases where there has been actual fraud.

Not to be invoked except in cases of actual fraud.

ANNO TRICESIMO PRIMO & TRICESIMO SECUNDO
VICTORIÆ REGINÆ.

CAP. CXVI.

An Act to Amend the Law relating to Larceny and Embezzlement.

[31st July, 1868]

Whereas it is expedient to provide for the better Security of the Property of Co-partnerships and other joint beneficial Owners against Offences by Part Owners thereof, and further

to amend the Law relating to Embezzlement: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

Members of
co-partnership
guilty of con-
verting to his
own use, &c.,
property of
co-partnership
liable to be
tried as if not
such member.

1. If any Person, being a Member of any Co-partnership, or being One of Two or more beneficial Owners of any Money, Goods, or Effects, Bills, Notes, Securities, or other Property, shall steal or embezzle any such Money, Goods, or Effects, Bills, Notes, Securities, or other Property, of or belonging to any such Co-partnership or to such joint beneficial Owners, every such Person shall be liable to be dealt with, tried, convicted, and punished for the same as if such Person had not been or was not a Member of such Co-partnership or One of such beneficial Owners.

Provisions of
18 & 19 Vict., c.
126, extended
to embezzle-
ment by Clerks
or servants.

2. All the Provisions of the Act passed in the Session of Parliament held in the Eighteenth and Nineteenth Years of Her present Majesty's Reign, intituled *An Act for diminishing Expense and Delay in the Administration of Criminal Justice in certain Cases*, shall extend and be applicable to the Offence of Embezzlement by Clerks or Servants, or Persons employed for the Purpose or in the Capacity of Clerks or Servants, and the said Act shall henceforth be read as if the said Offence of Embezzlement had been included therein.

Extent of Act

3. This Act shall not extend to *Scotland*.

CHAPTER XII.

ARBITRATION IN TRADES DISPUTES.

At the Trades Union Congress held in Liverpool in January, 1875, the following resolution was adopted:—

“That, with the view to promote the system of conciliation and arbitration in trade disputes, the Parliamentary Committee is instructed by this Congress to take measures at the earliest convenient period for the establishment of self-supporting local boards, or councils of conciliation and arbitration, in the chief industrial centres of the United Kingdom, and is authorised for the purpose to nominate or approve local committees, frame or sanction rules and bye-laws, treat with, seek, or accept the co-operation of employers of labour and other persons opposed to strikes and lock-outs and favourable to the friendly settlement of trade differences, and to do all other acts necessary for attaining the object of the resolution.”

Very little has, hitherto, been done towards carrying out the above resolution. During the interval between the Liverpool Congress held in January, and the Glasgow Congress held in October of the same year, very little could be done, as the whole of the time of the Committee was occupied with the Labour Bills, and other pressing measures in Parliament; but longer delay is not wise or prudent, and I venture to hope that some settled policy will be adopted to bring the Act into general operation as a means of preventing the ruinous contests which are but too frequently taking place. I commend this work to my late colleagues on the Parliamentary Committee.

MASTERS AND WORKMEN (ARBITRATION) ACT.

[35 & 36 VICT., CH. 46.]

An Act to make further provision for Arbitration between Masters and Workmen. A.D. 1872.

[6th August, 1872.]

Whereas by the Act of the fifth year of George the Fourth, chapter ninety-six, intituled “An Act to consolidate and 5 Geo. IV. c. 96

A.D. 1872.

amend the laws relative to the arbitration of disputes between masters and workmen," hereinafter referred to as the "principal Act," provision is made for the arbitration in a mode therein prescribed of certain disputes between masters and workmen :

And whereas it is expedient to make further provisions for arbitration between masters and workmen :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

I. The following provisions shall have effect with reference to agreement under this Act :

- (1.) An agreement under this Act shall either designate some board, council, persons or person as arbitrators or arbitrator, or define the time and manner of appointment of arbitrators or of an arbitrator; and shall designate, by name or by description of office or otherwise, some person to be, or some person or persons (other than the arbitrators or arbitrator) to appoint an umpire in case of disagreement between arbitrators :
- (2.) A master and a workman shall become mutually bound by an agreement under this Act (hereinafter referred to as "the agreement") upon the master or his agent giving to the workman and the workman accepting a printed copy of the agreement :

Provided that a workman may, within forty-eight hours after the delivery to him of the agreement, give notice to the master or his agent that he will not be bound by the agreement, and thereupon the agreement shall be of no effect as between such workman and the master :

- (3.) When a master and workman are bound by the agreement they shall continue so bound during the continuance of any contract of employment and service which is in force between them at the time of making the agreement, or in contemplation of which the agreement is made, and thereafter so long as they mutually consent from time to time to continue to

As to agreements under this Act.

employ and serve without having rescinded the agreement. Moreover, the agreement may provide that any number of days' notice, not exceeding six, of an intention on the part of the master or workman to cease to employ or be employed shall be required, and in that case the parties to the agreement shall continue bound by it respectively until the expiration of the required number of days after such notice has been given by either of the parties :

(4.) The agreement may provide that the parties to it shall, during its continuance, be bound by any rules contained in the agreement, or to be made by the arbitrators, arbitrator, or umpire as to the rate of wages to be paid, or the hour or quantities of work to be performed, or the conditions or regulations under which work is to be done, and may specify penalties to be enforced by the arbitrators, arbitrator, or umpire for the breach of any such rule :

(5.) The agreement may also provide that in case any of the following matters arise they shall be determined by the arbitrators or arbitrator, viz. :

a. Any such disagreement or dispute as is mentioned in the second section of the principal Act ; or

b. Any question, case, or matter to which the provisions of the Master and Servant Act, 1867, apply :

and thereupon in case any such matter arises between the parties while they are bound by the agreement the arbitrators, arbitrator, or umpire shall have jurisdiction for the hearing and determination thereof, and upon their or his hearing and determining the same no other proceeding shall be taken before any other court or person for the same matter ; but if the disagreement or dispute is not so heard and determined within twenty-one days from the time when it arose, the jurisdiction of the arbitrators, arbitrator, or umpire shall cease, unless the parties have, since the arising of the disagreement or dispute, consented in writing that it shall be exclusively determined by the arbitrators, arbitrator, or umpire :

A D. 1872.

A disagreement or dispute shall be deemed to arise at the time of the act or omission to which it relates:

- (6.) The arbitrators, arbitrator, or umpire may hear and determine any matter referred to them in such manner as they think fit, or as may be prescribed by the agreement:
- (7.) The agreement, and also any rules made by the arbitrators, arbitrator, or umpire in pursuance of its provisions, shall in all proceedings as well before them as in any court be evidence of the terms of the contract of employment and service between the parties bound by the agreement:
- (8.) The agreement shall be deemed to be an agreement within the meaning of the thirteenth section of the principal Act for all the purposes of that Act:
- (9.) If the agreement provides for the production or examination of any books, documents, or accounts, subject or not to any conditions as to the mode of their production or examination, the arbitrators, arbitrator, or umpire may require the production or examination (subject to any such conditions) of any such books, documents, or accounts in the possession or control of any person summoned as a witness, and who is bound by the agreement, and the provisions of the principal Act, for compelling the attendance and submission of witnesses, shall apply for enforcing such production or examination.

Short title.

11. This Act may be cited as "The Arbitration (Masters and Workmen) Act, 1872."

MEMORANDUM.

THE USES OF THE ACT.

Briefly stated, the uses of the Act are three, viz.:—

1.—To provide the most simple machinery for a binding submission to arbitration, and for the proceedings therein.

2.—To extend facilities of arbitration to questions of wages, hours, and other conditions of labour, and also to all the numerous and important

matters which may otherwise have to be determined by justices under the provisions of the "Master and Servants Act," 1867.

3.—To provide for submission to arbitration of future disputes by anticipation, without waiting till the time when a dispute has actually arisen, and the parties are too much excited to agree upon arbitrators.

MODE OF PUTTING THE ACT IN OPERATION.

1.—A form of agreement must be drawn up and printed, either by the employer or by the workman. Such a form is appended (No. 1); but this form is not obligatory, and it may be varied to any extent not inconsistent with the provisions of the Act.

2.—When the form of agreement is settled and printed it will become binding on an employer and a workman reciprocally upon the employer giving to the workman—and the workman accepting—a printed copy. But the workman has 48 hours to consider and satisfy himself of the effect of the agreement, and if within that time he gives a written or verbal notice to the employer, or his agent, that he rejects it, he will not be bound by it. If after accepting the copy he does not give such notice, then both he and the employer will be bound by the agreement during the agreed term of employment (whether that term be a day, or a week, or a year), and no longer. The agreement, however, may itself provide that six days' notice shall be given of an intention to terminate the employment; and, in any case, upon an expiration of an agreement it may be renewed in the same manner as before.

3.—In case any dispute of a kind to which the agreement relates arises between the parties bound by it during the continuance of the agreement, the dispute will be heard and determined, not by the parties, but by the arbitrators in the mode prescribed by the agreement; or, if no mode is so prescribed, then at their discretion. The attendance of witnesses and the production of evidence may be enforced in the manner provided by the Arbitration Act of 1824 (5 Geo. IV., c. 96).

4.—The award of the arbitrators may be in the annexed form (2); and it may be enforced in the manner provided by the Arbitration Act, 1824 (5 Geo. IV., c. 96) by distress, or imprisonment, and otherwise, or it may be enforced by plaint in the County Court.

5.—An analysis is appended of the clauses of the Arbitration Act, 1824, which will be applicable for the purposes of this Act.

FORMS OF AGREEMENT AND AWARD.

1.—FORM OF AGREEMENT.

The Arbitration (Masters and Workmen) Act, 1872.

A.B. (Here insert name or usual description of the employers' firm and the name of the works); and

C.D. (Here insert name and occupation of the workman).

1.—The arbitrators shall be E.F. and G.H. (or an arbitrator shall, on or before the day of 18 be named in writing by H.I. on the part of the employer, or by J.K. on the part of the workman).

2.—The umpire, in case the arbitrators are equally divided, shall be L.M. (or shall be the person for the time being holding the office of) (or shall be appointed by N.O.)

(1. NOTE.—*e.g.*, that A.B. left his employment without due notice, and that A.B. shall pay to C.D. the sum of for his breach of contract or that C.D. dismissed A.B. without due notice, and that C.D. shall pay to A.B. the sum of for his breach of contract).

3.—In case a person by whom anything is to be done under this agreement as an arbitrator or umpire, or as a person appointed to nominate any arbitrator or umpire, dies or declines to act, or becomes incapable of acting, or is interested as a party or otherwise in the matter referred to him, a person shall be appointed in writing by P.Q., or if P.Q. do not appoint within three days after request in writing from either party to the agreement, then by R.S. to act in the place of the person so dying, declining, or becoming incapable, or being interested.

4.—Six days' notice shall be required of an intention on the part either of the employer or of the workman to terminate the contract of employment and service in respect of which this agreement is made.

5.—The parties to this agreement agree to the following rules (or to such rules as may be made by the arbitrators on the following subjects), viz.:—

(a) As to the rate of wages. (Here insert any such rule agreed on).

(b) As to the hours and quantities of work to be performed. (Here insert any such rule agreed on).

(c) As to the conditions or regulations under which work is to be done. (Here insert any such rule agreed on). The penalties

for the breach of the above rules shall be the following.
(Here insert the penalties).

6.—The following disputes arising between employer and workman during the continuance of this agreement shall be determined by arbitration under this agreement, viz. :—

(a) Any such disagreement or dispute as is mentioned in the 2nd section of the Arbitration Act, 1824 (3 Geo. IV., c. 96), except (Here insert a description of any such disagreements or disputes which it is intended to except).

(b) Any question, case, or matter, to which the provisions of the Masters and Servants Act, 1867, apply, except (Here insert a description of any such question, case, or matter which it is intended to except).

7.—The arbitrators or umpire shall hear any matter referred to them in the following manner, viz. :—(Here insert any regulations by which it is desired to govern the proceedings of the arbitrators or umpire, *e.g.*, that they shall decide on written statements from each side, or that they shall hear oral evidence).

8.—The following books, documents, and accounts shall, on demand by the arbitrators or umpire, be produced and submitted for examination, subject to the conditions hereafter mentioned, viz. :—

(a) Books, documents, and accounts. (Here insert a description of them, or any such books, documents, and accounts as the arbitrator or umpire think fit to demand).

(b) Conditions. (Here insert any condition as to the mode of production or examination).

2.—FORM OF AWARD.

The Arbitration (Masters and Workmen) Act, 1872.

AWARD.

We, A.B. and C.D. (name the arbitrators or umpire), the arbitrators or umpire in the matter in dispute between (Here state the names of complainant and defendant) do hereby adjudge and determine (1) that (Here set forth the determination).

(Signed)

This day

18

A.B.

C.D.

APPENDIX.

Analysis of the applicable sections of the Arbitration Act, 1824 (5 Geo. IV., c. 96)—

- § 9.—Attendance of witnesses by a justice of the peace by summons or commitment.
- § 23.—Acknowledgment of fulfilment of award by the person in whose behalf it is made.
- § 24-30.—Performance of award may be enforced by distress or imprisonment.
- § 31.—Costs and expenses to be settled by the arbitrators.
- § 32.—Exemption from stamp duty.
- § 30-34.—Protection of arbitrators, &c. from actions.

APPENDICES.

APPENDIX A.—THE TRADE UNION ACT, 1871.

GENERAL OBSERVATIONS UPON THE SCOPE AND WORKING OF THE TRADE UNION ACT, AND ITS DEFECTS.

The great practical value of this statute is attested by the growing favour with which it is received by Trades Societies, and by the general smoothness of its working. During the five years of its existence no serious complaints have been made either as to its general operation or as to the application or bearings of any of its sections, excepting as to prosecutions under section 12, and as to the transfer of stock under section 8.

The amendments which have been suggested by the most experienced officers of those societies which are enrolled are here set forth, and it will be observed that, in no single instance, do they touch the principle of the Act, or its general scope or character. They refer entirely to some few defects which have been found in the working of the Act, the amendment of which is necessary to simplify the operation of the law and to reduce the expense incurred in its working.

Each of these suggested amendments has been enacted in the recent Friendly Societies Act, and the

embodiment of the same in an Act to amend the Trade Union Act, 1871, will secure uniformity in the law as regards what are after all kindred societies, although in the case of Trade Societies they have some objects other than those appertaining to Friendly Societies pure and simple.

The proposed amendments are :—

1st. “In section 8, line 6, to add after the word ‘branch,’ ‘or of the trustees of the trade union, if the rules of the trade union so provide;’ as enacted in section 16, sub-section 3, of the Friendly Societies Act.”

2nd. “Also in section 8, line 14, after the word ‘trustees,’ to add, ‘When any person, being or having been a trustee of a trade union or of a branch of a trade union, and whether appointed before or after the legal establishment thereof, in whose name any stock belonging to such union transferable at the Bank of England or Bank of Ireland is standing, either jointly with another or others, or solely, is absent from England or Ireland respectively, or becomes bankrupt, or files any petition, or executes any deed for liquidation of his affairs by assignment or arrangement, or for composition with his creditors, or becomes a lunatic, or is dead, or has been removed from his office of trustee, or if it be unknown whether such person is living or dead, the Registrar, on application in writing from the secretary and three members of the union or branch, and on proof satisfactory to him, may direct the transfer of the stock into the names of any other persons as trustees for the union or branch; and such transfer shall be made by the surviving or continuing trustees, and if there be no such trustee, or if such trustees refuse or be unable

to make such transfer, and the Registrar so direct, then by the Accountant-General, or Deputy, or Assistant-Accountant-General of the Bank of England or Bank of Ireland, as the case may be; and the Governors and Companies of the Bank of England and Bank of Ireland respectively, are hereby indemnified for anything done by them or any of their officers in pursuance of this provision against any claim or demand of any person injuriously affected thereby;’ as enacted in section 15, sub-section 6, of the Friendly Societies Act.”

3rd. “In section 12, line 11, after the word ‘situate,’ to add ‘or where the offence has been committed,’ as enacted in section 33, sub-section 1, of the Friendly Societies Act.”

4th. “In section 17, line 2, after the word ‘Act’ to add ‘trade unions, carrying, or intending to carry, on business in more than one country, shall be registered in the country in which their registered office, as herein mentioned, is situate; but copies of the rules of such unions, and of all the amendments of the same, shall, when registered, be sent to the Registrar of each of the other countries, to be recorded by him, and until such rules be so recorded the union shall not be entitled to any of the privileges of this Act in the country in which such rules have not been recorded, and until such amendment of rules be recorded the same shall not take effect in such country,’ as enacted in section 11, sub-section 6, of the Friendly Societies Act.”

It will be seen that these suggestions are not in any way antagonistic to the scope, spirit, or design of the Trade Union Act, but apply solely to the details of its operation, and are required simply to ensure greater

smoothness in its working. In reference to these suggestions the Chancellor of the Exchequer in 1874 said, "As the Government had, by offering those advantages in the Friendly Societies Bill, shown that they were reasonable, the request could not be refused."

Another suggestion has been made, namely, the omission of the limitation with regard to the power to hold land. If the omission were made it is doubtful whether it would be of any practical value, at least for many years to come; but in any case the limitation cannot be defended either economically or politically. The same limitation is, however, made in the Friendly Societies Act 1875, section 16, sub-section 2.

The provisions of the Trade Union Act (1871) Amendment Act, 1876, clearly meet every requirement so far as the preceding suggestions are concerned.

Notwithstanding, however, what has been said at the commencement of this chapter, as to the absence of serious complaints with regard to this Act, it is possible that some legal difficulties may arise in the future which it is our duty to explain. As some difficulties were found to exist in registering societies whose rules did not clearly bring them under the Trade Union Act, the present Registrar proposed a case, and submitted it to the Law Officers of the Crown, and requested their opinion upon the following points:—

1. Whether the present practice of the Registrar of Friendly Societies is correct in requiring the rules of all trades unions to set forth some purpose in illegal restraint of trade

2. How he should deal with bodies already registered as trade unions, the rules of which do not appear to him

to set forth such a purpose, in case of their applying to the office for registration of alteration of rules.

3. In what manner societies having for their purpose, or one of their purposes, the relief of the unemployed, or for regulating the relations between workmen and masters, or between workmen and workmen, or between masters and masters, which would not have been unlawful combinations previous to the Trade Union Act, should be dealt with.

The following reply is given :—

OPINION.

“1. We are of opinion that the present practice of the Registrar in this respect is correct, and that he is entitled to require, as a condition precedent to registration under the Act of 1871, evidence that some one at least of the purposes of the trade union is such as would, but for the Act, have caused the union to be deemed an unlawful combination within the meaning of the 23rd section.

“2. The fifth sub-section of section 13 shows that the cancellation or withdrawal of certificates of registration was contemplated by the Legislature, although the Act contains no special provisions with regard thereto. We think in the cases referred to in this question, the Registrar should require the alterations of the rules to be such as to bring the societies within the definition of trade union in the 23rd section.

“3. The societies referred to in this question not being trades unions within the meaning of the 23rd section, should be dealt with under the Friendly Societies Act.

(Signed)

“RICHARD BAGGALLAY.

“JOHN HOLKER.

“Lincoln's Inn, June 11th, 1875.”

It is important, therefore, to remember that in preparing rules for registration under the Trade Union Act, some one or more of its rules must provide that the society shall have for one of its objects the restraint of trade, as defined by the Act, and not be a purely friendly society.

Those societies whose rules do not clearly set forth these objects should be amended so as to conform to the Act.

Societies which prefer to be registered under the Friendly Societies Act must carefully omit all those rules which relate to the objects of trade unions, and care must be taken not to infringe the Friendly Societies Act by acting contrary to its provisions, and especially in regard to the disposition of their funds. The present Registrar has called attention to this matter more than once, and we hope that his advice will be acted upon in all such cases.

But the Registrar has called attention to other matters still more grave in the Report (1875) just issued, which we cannot do better than reprint for the benefit of those officers and members of trades unions who may not have seen the Report, or who may not have been struck with the gravity of the issues involved.

The observations of the Registrar are as follows:—

“In connection with the subject of trade unions, the Registrar desires to call attention to a matter of great importance. By the Trade Union Act, 1871, it is provided (section 13) that the Registrar, upon being satisfied that a trade union has complied with the regulations respecting registry in force under the Act, shall register the trade union and its rules. The effect of this is that

if a trade union provides in its rules for the matters prescribed in the first schedule to the Act, the Registrar is bound to register the rules, however contrary to law all their other provisions may be. The rules submitted to the Registrar by trade unions very frequently contain provisions contrary to law, self-contradictory, or not expressing the real intention of the framers. In these cases he has gone beyond the strict limits of his duty, and called the attention of the unions to the matter, but often without result. For example, trade unions are not exempted from the operation of the Life Assurance Companies' Act, 1870, if they insure sums at death, yet the rules of many of the unions contain provisions for payment of sums at death, without any reference to the requirements of that statute. Again, the rules of trade unions frequently provide for the payment of sums on death to persons nominated which, though allowed within certain limits by the Friendly Societies Act, is not legal in a trade union. Rules of trade unions are frequently so framed, also, as to purport to apply to the union other provisions of the Friendly Societies Acts as those for settlement of disputes, exemption from stamp duty, membership of unions, &c. Such rules, of course, although registered, would have no binding effect, and in respect to any infraction of the provisions of the Life Assurance Companies' Act, the trade union might become liable to penalties. The Registrar thinks it important that the attention of trade unions should be drawn to this. It cannot again be too clearly understood that section 5 of the Trade Union Act, which enacts that the Friendly Societies Acts shall not apply to a trade union, and that the registration of a trade union under those Acts shall be

void, has the effect of depriving of all legal sanction any rules of trade unions for benefits in sickness, old age, or at death."

When the Life Assurance Companies' Act was passed in 1870, trades unions were not registered as such, for the Trade Union Act was not passed until the following year, or it is more than probable that the same exemption would have been extended to these societies which is extended to friendly societies, especially as many of these societies had obtained a partial legal status by depositing their rules.

The following section has been inserted in the "Trade Union Act Amendment Bill, 1876," to extend the exemption to trade unions:—

Section 6.—Whereas by the "Life Assurance Companies' Act, 1870," it is provided that the said Act shall not apply to societies registered under the Acts relating to Friendly Societies, the said Act, or the amending Acts, shall not apply, nor be deemed to apply, to trade unions registered, or to be registered, under the principal Act.

In addition to the amendments to the Trade Union Act, 1871, as suggested by the officials of registered trades unions, some further amendments are proposed as a remedy for certain defects which appear to have been experienced, in the Registrar's office, in carrying out the provisions of the Act. These amendments are embodied in the Trade Union Act Amendment Bill, 1876, which has already passed the Legislature; the following are the chief provisions which have been added:—1. The application of section 28 of the Friendly Societies Act, 1875, with reference to payments on the death of children

under 10 years of age, to trade unions whether registered or unregistered. 2. For the withdrawal or cancelling of certificate of registry. 3. For change of name. 4. For the amalgamation of two or more unions together as one union. 5. For the registration of changes of name, and of amalgamation. 6. For the dissolution of a registered union. 7. For penalties for failure to give the required notices. 8. For the membership of minors. 9. For nomination in case of death.

NOTE.—The enactment of the 'Trade Union Act Amendment Act, 1876, has rendered the preceding observations no longer necessary because the whole of the suggestions therein contained have now become law. But it is thought advisable to retain these general observations on the scope and working of the Act of 1871 for the purpose of showing that the demands of the workmen in regard to the Act were reasonable and just, as indeed they are now acknowledged to be by the legislature; they, moreover, state the reasons for the several amendments which could not well be done in the text of Chapter III. which deals with the exposition of the law itself.

The ability and promptitude with which this new Act was carried deserve the thanks of all those for whose benefit it has been enacted, and every care should be taken that the whole spirit and intention of those Acts should be faithfully carried out.

G. H.

August 28th, 1876.

APPENDIX B.—THE LAW AS TO PEACEFUL PICKETING.

No authoritative decision has been given, as yet, by the superior courts, with regard to picketing, but two learned judges have expressed opinions with regard to the point which will carry some weight. It is advisable therefore to examine their judgments with a view to ascertain what the law really is. On Friday, July 14th, 1876, two important trials took place, one at the Manchester Summer Assizes, the other at the Maidstone Summer Assizes, both of them having reference to the Conspiracy and Protection of Property Act, 1875, although in neither case was the question one of peaceful picketing, pure and simple, and it is desirable when such a case comes before the courts that it shall be free from any attendant circumstances of actual violence, or of any act of intimidation, because such acts are not necessarily incidental to picketing. Yet the judges in both cases delivered judgments which covered the whole ground. The case at Manchester, which arose out of a cowardly and dastardly outrage committed at Bolton, on April 8th, 1876, whereby a workman, named James Thompson, was brutally murdered, was tried before Mr. Baron Bramwell. It is not necessary to go into the facts, what we have now to deal with is simply the judgment of the learned judge. The following are taken verbatim from the *Bury Times* of July 15th, 1876 :

“ His Lordship, before proceeding to pronounce judgment, had a consultation with Mr. Justice Lindley. On his return he said he thought the jury had acted with great discretion—perhaps with great humanity in addition—in declining to find the prisoners guilty of murder. The prisoners had committed a most cruel crime. He wished to say nothing against trades unions—if he were a working man he thought he should belong to one of them, but he should take care if he did, that their rules should be more reasonable than they were in the majority of cases.

There was no harm in 'picketing' if they conducted it so as not to terrify people; but that they should interfere by violence to prevent a man following employment in the way he thought was most for his own benefit, and in doing which he did them no wrong or injustice, was the most intolerable piece of tyranny he knew of. It must be severely punished. He wished to give them a word of friendly warning; he advised them to let their fellow-workmen be as free as they themselves would desire freedom—to make no attempt to enslave them against their liking or inclination."

The ruling of this learned judge is quite in accordance with the spirit and intention of the Legislature in passing the act of 1875, and fully within the scope and meaning of the charge of the learned Recorder of the City of London (Mr. Russell Gurney), delivered in reference to the Cabinet Makers' case.

The second case arose out of the Engineers' strike at Erith, and was tried as one of picketing, involving also charges of intimidation and molestation. It was tried before Mr. Baron Huddleston, the details of the case are not material, but the following remarks are taken verbatim from the *Times* of July 15th, 1876.

The learned judge in refusing to postpone the trial said:—"Judging from the depositions, I should think that the question is one on which the men have taken an erroneous view of their legal rights in the matter. The law of conspiracy, with reference to differences between masters and men had, no doubt, undergone a great alteration, the result of the greatest consideration. The Act passed last Session was the result of the most anxious deliberations among all parties, assisted by the representatives of the men, and I would invite the men in their own interests to consider how much the Legislature has done for them; and if they see that they have gone beyond the law, which they themselves assisted in passing, then I hope they will in a frank and manly way admit it. Of course, if they desire to dispute it, I will give the case the best consideration, and the jury and I will try it, I am sure, with the greatest care."

"In pronouncing judgment, the learned judge said it was painful to see respectable men like the defendants in the positions of criminals, and he hoped from the frankness with which they had acknowledged their error, as going beyond the law, that they would in future not only themselves abstain from such acts, but induce others with whom they had influence to do so. The law now was perfectly fair and equal as to masters and men. The Act was altered last Session in the interests of

the men and ought to be respected by them. The masters in the present case had desired to introduce piecework, and had a perfect right to do so. The men had an equal right to refuse it; but they had no right to combine in order to exercise tyranny upon others. You have a right to arrange your own terms of working, but you have no right to combine to impose restriction upon others. You may advocate your own views by argument and reasoning, but you must not endeavour by unlawful means to compel others to abstain from working. You must not persistently follow any one from place to place; you must not, in short, 'dodge' a man; you must not do anything to interfere with his personal liberty. You must not hide his tools or his clothes, or anything he uses. You must not watch or beset men, except for the purpose of obtaining or giving information, or to ascertain if those professing to be on strike are really working. There was a proviso inserted that this should not be criminal; but it is so dangerous a thing to do at all, that it is difficult to guard against the abuse of the practice, and, therefore, if you assert a right to 'picket' you are almost certain to get into difficulty, for whatever you may intend by it, others will go beyond it. Most certainly, watching and besetting, unless it is only for information, is illegal. If, then, you do not wish to go beyond the law, it is better to avoid such acts altogether, as it is illegal to follow anyone about in the streets. Looking at the depositions, there can be no doubt that some of you went beyond the law in this respect, and it is manly of you to acknowledge it. You are charged with conspiring to do these unlawful acts. Under the Act a mere combination to effect a fair trade object is not a criminal conspiracy; but to combine together to do these unlawful acts is to commit a criminal offence. You must not in future, then combine to do these acts."

With the general tone of the learned judge's remarks we thoroughly agree, and there is so much good in the advice he gave to the defendants that we heartily endorse it, and would urge all men, whom it may concern, to study it for themselves. But at the same time, in our opinion, the learned judge took too limited a view of the Act of 1875, when he apparently restricted the law to cases of "obtaining or giving information, or to ascertain if those professing to be on strike are really working." In every discussion in Parliament on this question the Recorder's charge was quoted as showing what was, and what was not, legal as to picketing. And be it remembered that the Home Secretary sent a copy of that charge, together with the Acts of 1875, to every judge and magistrate with a view to its being taken into consideration

with the Acts, whenever a case should arise. Besides, Baron Huddleston goes too far in saying that men have "no right to combine in order to exercise tyranny over others." There is no language in the statute or in the law to justify this expression. "Exercising tyranny" is not a criminal offence. Men have a right to combine to do anything which is not a criminal offence, by section 3 of the Conspiracy and Protection of Property Act. The use of such a loose expression is, therefore, to be regretted, as it is without any legal force or meaning.

Picketing, if it be resorted to, must be viewed in the light of natural justice, as well as of legal right; it must not be defined in such a way as to interfere with the legal, political, and moral rights of a man, or so as to restrict the personal liberty of the subject, or of his social rights as a citizen. And what is true of the workman picketing, is equally true of the persons who are picketed. A trade union workman has a right in common law and equity to do all that another man has a right to do with argument, persuasion, or even entreaty, but he has no right to go beyond this. If any man goes beyond this he transgresses the law and deserves punishment. Mr. Baron Bramwell's ruling is just, and no more, when he says:—"You may advocate your own views by argument and reasoning, but you must not endeavour by unlawful means to compel others to abstain from working." These "unlawful means" are not now to be interpreted as part of the law of conspiracy. They are enumerated and defined by the 7th section of the Conspiracy and Protection of Property Act. All means, therefore, that do not come within the terms of this section, or violate some other law, are lawful.

The following extracts from the Recorder's charge may be studied with advantage by employers, workmen, magistrates, and judges:—

"Now, in order to constitute a criminal conspiracy, there must be a combination, either to effect an unlawful object, or to effect an object, whether it be lawful or unlawful, by unlawful means.

"With respect to the original dispute, both parties, employers and employed, were acting within their rights. The employers had a perfect right to say that in future they would not employ men who were not willing to be paid by piece-work, and the men had a perfect right to say that they would not work on those terms. Not only had each man that right, but the men, as a body, had a right to agree together that they would not work on those terms, and they were at liberty to persuade others to come to the same determination. And this they might do in the expectation that the employers, in consequence of their

inability to obtain workmen upon his terms, would be willing to waive those terms.

“The original object, therefore, being lawful, the question is whether the defendants have conspired to use unlawful means to obtain their object.

“This, then, is the question that you will have to consider, whether the evidence that is laid before you is sufficient to establish a *prima facie* case that the defendants did conspire to molest or obstruct the prosecutors, by watching or besetting their place of business, and whether they did this in order to coerce them to alter their mode of carrying on their business.

“And here you must observe that the question is, not whether they have endeavoured to take their stand by themselves refusing to work, and by persuading others not to work; this they have a right to do; but the question is whether they have tried to effect that object in a way that is forbidden by the Act, and with that purpose. That they did watch the place of business, probably, there is no doubt, but there are some purposes for which they had a perfect right to watch. When a contest of this sort is going on, it is not unusual, I believe, to watch, in order to see that none of the men who receive what is called ‘strike pay,’ are also receiving wages from the employer. But the more important object, no doubt, that the watchers had in view was, to inform all comers when, for instance, any might have been attracted to come there by the advertisements which had been inserted in the newspapers to inform them of the existence of the strike, and endeavour to persuade them to join them. All this is lawful so long as it is done peaceably, without anything being done to interfere with the perfect exercise of free-will on the part of those who were otherwise willing to work on the terms proposed by the employer.

“The distinction to which I wish to draw your attention is well pointed out, as it appears to me, by Mr. Justice Lush, in a case in which a similar question arose, in which he says: ‘To bring them within the terms of the Act under which the indictment is framed, there must have been threats or molestation, otherwise than by endeavouring peaceably and in a reasonable manner to persuade others to abstain from work.’ He refers to a previous case, that had been tried at Leeds, where there had been hooting at the men who were proposing to work, calling them names; in which case he had held that the parties pursuing that line were guilty of the offence of molestation and intimidation, in preventing,

by terror, the free exercise of the men's will; and he says at the end, 'The question that we have to decide is, whether the defendants did endeavour to control the free agency, or to overcome the free will of their fellow-workmen, by force or intimidation. If there had been merely persuasion in the matter, whatever the consequences were, it would not be at all an unlawful act.'

"It seems to me, gentlemen, that, guided as one may fairly be by that decision of the learned judge, and by that exposition of the law, in which I perfectly agree, I should suggest to you that the sort of question you will have to ask yourselves is, whether the evidence shows that the defendants were guilty of obstructing and rendering difficult of access the prosecutor's place of business, or whether anything which they did was calculated to deter or intimidate those who were passing to and fro, or whether there was an exhibition of force, calculated to produce fear in the minds of ordinary men, or whether the defendants, or any of them, combined for that purpose, whether they combined in order to do it.

"If you think that, it seems to me, then it will be your duty to find a true bill; but if you think their conduct may be accounted for by a desire to ascertain who were the persons working there, or peaceably to persuade them or any others who were proposing to work there, to join their fellow workmen, who were contending, whether rightly or wrongly, to act for the interests of the general body, it seems to me that there is no evidence sufficient to establish the charge that is here made. That is the main question you will have to consider. Did they conspire together, first by the exhibition of force to obstruct the passage of persons to the place of business, and by that exhibition of force to deter them from taking a line contrary to that of the persons exhibiting that force, or whether they conspired by terror and intimidation to deprive the men of their free will to bestow their labour just where they thought fit. If they did that, it seems to me that they have laid themselves open to a criminal charge. But if, on the contrary, they were only there peaceably to warn persons that there was a strike, and peaceably to tell them that it would be to their interest to join their strike, and not to adopt a system which, whether rightly or wrongly, was what they considered otherwise than advantageous to their interests, if they merely did that, I cannot see any ground upon which this criminal charge exists.

"I think, gentlemen, if you put these questions to yourselves, when you have decided upon them, you will be guided to a right decision whether to find or ignore the Bill that will be laid before you."

It appears to me that the system of picketing is accurately defined by the recorder in his charge, and the man who goes beyond it violates the rights of free citizenship, and lays himself open to the charge of having broken the law, and thereby incurred its penalties.

In conclusion, let me point out that the Recorder's charge (which Mr. Cross said was the true interpretation of the 7th section of the Conspiracy and Protection of Property Act) lays it down clearly that *watching to inform all comers* is lawful; in other words, that peaceful picketing is lawful. The question as to the advisability of picketing, as a matter of policy, or as a means to the end, is not here discussed.

APPENDIX C.—DIGEST OF THE LABOUR LAWS.

By HENRY CROMPTON, Esq.

The two new statutes, the Employers and Workmen Act, and the Conspiracy and Protection to Property Act, of 1875, constitute a most important change in the laws affecting labour. They are of still greater importance than the legislation of 1871, both as regards practical results and the admission of principles for which working men have long contended. The Master and Servants Act and the Criminal Law Amendment Act are repealed, but the Trade Union Act is not touched. This remains as it was, and retains its former importance, making trade unions legal instead of illegal societies, and preventing their members from being liable, as they formerly were, to prosecution for conspiracy. The new Conspiracy Act must be read in conjunction with the conspiracy clause of the Trade Union Act. It may be well, here, to insist upon what might by some be regarded as a trivial matter of form, but which we regard as of vital importance, that the Trade Union Act should be kept as it is, in a distinct shape, to be carefully watched and maintained as a charter, and that its provisions should not, as was recently proposed, be embodied in any other statute. The new laws are satisfactory in principle. Some of their provisions concede even more than had been demanded. They have been conceived in a generous spirit. If they are interpreted in the same spirit, there will be little room left for dissatisfaction. But, supposing the most unfavourable interpretation of the weakest and most doubtful parts of the Acts, they can even then only be regarded in the light of a complete victory along the whole line; something would still have been gained upon every point. Two obnoxious Acts have been repealed, several most valuable principles have been admitted, and the law of conspiracy affecting trade disputes has been abolished. Besides this, there is a distinct victory in respect of what the Acts do not contain.

The Employers and Workmen Act is substituted for the Master and Servants Act. It carries out the principle that breach of contract shall not be a criminal offence, as it was under the ninth and fourteenth sections of that statute. It does so by referring the disputes between employers

and employed to the county courts, and by giving these courts powers similar to some of those conferred on magistrates by the Master and Servants Act. It gives similar and concurrent powers to justices of the peace, when the damages claimed do not exceed £10. As in the former Act, either employer or employed can sue for damages in respect of breach of contract, debt, &c., but no sentence of fine or imprisonment can be imposed. The suit and the tribunal is civil, and in no sense criminal. Imprisonment can only be used to enforce payment of damages, as it is used in the civil process of the county courts. It is by section three that the powers are conferred on the county courts; by section four on the justices of the peace—that is, on courts of summary jurisdiction. Upon reference to the third section, it will be seen that the court has power to adjust and set off the various claims upon the one side and upon the other, and to rescind any contract upon just terms. These are the necessary powers for speedy and equitable settlement of disputed claims. Lastly, a power is given by sub-section three enabling the judge on the trial—where damages can be awarded for breach of contract with the plaintiff's consent, and if the defendant be willing to find security—to order the performance of the contract. The defendant and his surety then become liable for a specified sum, which, of course, has to be paid, if the order is disobeyed. This provision has been wisely substituted for the power of compelling specific performance by imprisonment. Many of the workmen's contracts could certainly have been thus enforced. The difficulty of so doing is rather legal than practical. The real objection to the power of compelling specific performance was, that it is so liable to abuse. It would have been extremely difficult for workmen to ask to be exempted from such a process. Too much praise can hardly be given to Mr. Cross for his conduct on this point, which was firm, wise, and generous.

Sections five, six, and seven relate to apprentices, and give jurisdiction over apprenticeship disputes to courts of summary jurisdiction. There is power to rescind the contract of apprenticeship, upon just terms as to the premium; also to make an order directing the apprentice to perform his duties. Of course such an order would be useless without a power of punishment for disobedience; and, therefore, power is given to sentence the apprentice to fourteen days' imprisonment. But this does not follow, as a matter of course, upon the order. A month must intervene between the date of the order and the punishment, and then the court must be satisfied that the apprentice has disobeyed its order. There is no haste in the matter; the apprentice has plenty of time to reconsider his position. Besides, the court may accept a surety for performance, in lieu of such

punishment. There cannot be specific performance without imprisonment, and therefore it must be admitted that, whether specific performance should be used to enforce these contracts or not, the Act is most considerate towards the apprentice; carefully guarding him by wise limitation, and giving an alternative mode of enforcement, and making the imprisonment optional on the part of the court.

Section eight says that security under this Act may be given by an oral or written acknowledgment, in or under the direction of the court. Surely it would have been better to have required it to have been made out on a printed form. These things cannot be too clear, and all such undertakings should certainly be by writing. The Lord Chancellor under this section is enabled to make rules with reference to giving such security, and perhaps he may be able to do something in this direction. Under the ninth section he can also make regulations, with respect to costs and all matters for carrying into effect the summary jurisdiction given by this Act. These are very large powers for anyone to possess. It is well, therefore, that they should be entrusted only to the highest legal authority in the land. The rest of the section assimilates the procedure of summary courts under this Act to that of the Summary Jurisdiction Act; but no warrant can be issued under it, except in the case of an apprentice. It is not very clear why the apprentice should still be arrested on warrant. Another valuable provision is that the court may order any payment to be made to be paid by instalments. Lastly, this section extends the power of Justices of the Peace, giving them for the purposes of this Act the powers now possessed by the county courts under the Debtors Act, by which they can sentence a judgment debtor who, having goods will not pay, to six weeks' imprisonment, a very stringent power for justices to possess, but which is the civil process to which everybody is liable in the county courts. Section ten, by defining the word "workman," expressly brings contracts to execute work and labour, personally, like piecework, within the terms of the Act, and renders minors under 21 years liable for their contracts. It expressly excludes domestic or menial servants from the benefits of this legislation. It is difficult to see why; but inscrutable sometimes are the edicts of our superiors. Domestic servants have hardly begun to form combinations for their own protection. Section eleven prohibits certain deductions being made or set-off by the court in the case of women and children. It is well known that some employers in the textile trades especially in north and north-east Lancashire have rules by which if the operative is absent, all the wages then due are forfeited. This clause is a great protection against

the hardships arising from these rules. It says that when a child, young person, or woman, subject to the Factory Acts, brings a claim under this statute against an employer, he shall not be allowed to a claim on his side to have any such forfeits deducted from the debt. He must pay for work done, but he may claim to have an amount deducted sufficient to compensate him for any damage he may have sustained by such breach of contract on the part of the women or children. Section twelve limits the application of the Act to the poor apprentices, where no premium is paid, or where it does not exceed £25. Section thirteen excludes seamen and sea apprentices from the advantages of this Act.

The Conspiracy and Protection to Property Act.

Conspiracy is generally defined to be a combination by two or more persons to do an illegal act, or to do a legal act by illegal means. The judges have to determine what comes within these terms "illegal act" and "illegal means." This constitutes a legislative power, by which the judges alter the law as they like. They have during many years decided that the combination of workmen to force masters to alter their terms of employment was injurious to and in restraint of trade, and an illegal act, and therefore a criminal conspiracy. The Trade Union Act remedied this iniquitous state of the law by expressly legalising every possible combination in restraint of trade, whether a temporary strike or a permanent union. The judges, however, declare that the only effect of the legislation of 1871 was to make the trade object of the strike not illegal. A strike was perfectly legal, but if the means employed were calculated to coerce the employer they were illegal means, and a combination to do a legal act by illegal means was therefore a criminal conspiracy. In other words, a strike was lawful, but anything done in furtherance of a strike was criminal. Thus the judges in effect tore up the remedial statute, and each fresh decision went further and developed new dangers. Happily this state of things has been recognised by the Legislature, and the new law takes this legislative power, as far as the working classes are concerned, out of the hands of the judges, by a simple clause, saying that a combination to do an act in furtherance of a trade dispute shall not be a conspiracy unless such act is a crime when done by one person. The Trade Union Act legalises workmen's combinations; this clause legalises all acts done in furtherance of the combination that are not crimes when done by one man. The common law of conspiracy as affecting trade disputes has, in fact, been abolished.

Conspiracy now in these cases must be defined as a combination to

commit a crime, whether that crime be the object or means of the combination. Thus, if workmen agree to carry out a strike by murder, arson, or rattening, that will be a conspiracy. The result is that the working classes are now in a better condition than any other citizens. Shopkeepers, lawyers, parsons, &c., are still liable to be tried for conspiring to coerce. The blue and red omnibus decision is actually a decision binding upon all, except workmen and employers. While passing this favourable judgment upon the effect of the new law, one qualification must be distinctly made. There are in the statute-book a vast number of the most extraordinary laws passed in very different times, and intended to crush all combined action and freedom of expression, and which have not been put in force for many years. These, and especially those relating to unlawful assemblies, are of the most sweeping and tyrannical character. If put in force they would probably render all trade societies and most political associations criminal. Besides these, there are so great a number of small crimes over which justices have summary jurisdiction; our laws are so confused, dispersed, and difficult to find out, that while this state of things continues, no man can say that the law, which makes combination to commit a crime a conspiracy, may not be abused and used as an instrument of oppression. The Scotch have a valuable rule, by which a law that has been obsolete for a certain time is obsolete for ever. We have no such happy limitation; any old law may be raked up at any moment and put in force by ingenious and mischievous lawyers.

Mr. Cross rejected the dangerous proposal made by the Royal Commission that joint breach of contract to carry out the purposes of the Criminal Law Amendment Act, that is joint breach of contract for workmen, should be a conspiracy. The new clause must be taken to reverse Baron Amphlett's decision, which was extremely doubtful law, and by which, if a number of men stung by some injustice or moved by some sense of right declined to complete their contract, they were liable to be convicted of conspiracy. Nothing but a manifest twisting of the law and of its meaning could now make joint breach of contract a criminal conspiracy. The next three clauses of the third section require no remark. The last clause contains an important limitation of the punishment which can be given for a trades conspiracy to commit a crime. If two persons commit an offence punishable with a small penalty, they are liable to two years' imprisonment for conspiracy. Under this law the gas stokers got twelve months. This clause, in the case of combinations by employers or workmen, limits the imprisonment to three months unless the statute

attaches a higher penalty to the offence when done by one person, and then the conspiracy to commit the offence would be punished in the same way as the offence itself. In this, too, the employers and workmen are now in a better position than anyone else. If this law had been in force the gas stokers could only have been sentenced to three months' imprisonment, to which they were liable under the Master and Servants Act. It should be remembered that Mr. Bruce only reduced the punishment from twelve to four months. If, therefore, men are convicted of a conspiracy to commit an offence under the fourth or fifth section of this Act, they would only be liable to three months, which is the punishment fixed by the Act. Valuable as this conspiracy clause would have been alone, its value depends also on the repeal of the Master and Servants Act, and the adoption of the principle that breach of contract shall not be criminal. But breach of contract when coupled with other circumstances of a criminal character, such as fraud, gross personal negligence productive of injury, &c., &c., may very well come within the scope of penal law. Plenty of such breaches of contract constitute very serious crimes, and are severely punished. When men undertake very responsible duties affecting the safety and interest of the community, it may become a question whether the wilful or even grossly careless breach of them should not be severely punished. Whenever this is the case, it must not be by unjust, vague, and sweeping clauses like the fourteenth section of the Master and Servants Act, but by special enactment, setting out what penalty will follow the breach of certain duties or rules. This principle is accepted by the fourth section, which makes it a crime if any one employed in the supply of gas or water maliciously breaks a contract knowing or having reasonable cause to believe that the probable consequence will be to deprive a town of gas or water. The employers are to put up a printed copy of this section under £5 penalty for not doing so. Now the practical effect of this section will be that the men in these services, on whom the supply of gas and water is directly dependent, will not be able to leave without the notice specified in their contracts. The statute does not fix a notice for them, but says, if you do undertake this duty, and if you contract not to leave without notice, and if you maliciously absent yourself contemplating that a town will be deprived of its water or gas, that will be punished as a crime. If the notice required by the employers is unreasonably long, the men have the remedy in their own hands. If the works can be carried on without any notice, under the minute system, there is nothing to prevent the men trying to establish the same. Looking to the immense importance of the regular supply of

water and gas to a town, it cannot be said that such a law is unjust. Such a breach of contract, if done with a malignant and wicked design, would be a crime. It is to be regretted that the Government did not see its way to compelling all these employments to be by written or printed contracts; but the public notice of the criminal liability is valuable as a warning.

Section five fills up a gap which existed in the Malicious Injury to Property Act. A man, by not performing a particular duty in certain manufacturing processes, may do a malicious injury to property just as effectually as if he cut the article with a knife or set it on fire. Such a distinction was a blot in our law. If a man, by such an omission of duty, wickedly and maliciously destroys property, he ought to be dealt with exactly as if he had done it by an act of commission. The new clause does not go to that length, but makes such criminal breach of duty a crime punishable with three months' hard labour. It certainly is, so far, a just and wise law. The question is whether the wording of the clause is too wide; the words are:—"Where any person wilfully and maliciously breaks a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequences will be to endanger human life, or cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury." Both here and in the fourth section the crime must be done "maliciously." Mr. Cross laid great stress upon this word, but, unfortunately, there is, in the legal decisions, very little difference between "wilfully" and "maliciously," if any. It need not be a malice against any particular person according to section fifteen. Mr. Cross's view as to the meaning of "maliciously" is very important. In the event of any trial upon this section efforts must be made to get such an interpretation of this work as would be a real protection against the section working injustice. If this were done, it would seem hardly possible to bring mere damage to property resulting from breach of contract within the law, but only when direct injury was done to property with wickedness and malignity of purpose, to injure or destroy. It must, moreover, be "valuable" property, but the Act is silent as to the meaning of the word.

The words "*a contract of service or of hiring*" have been found fault with, as limiting the law to labour contracts; but if these words had been omitted the section would have had a still wider application to piecework, which is not necessarily a contract of service or of hiring, but often only a contract for a special work in which time is not generally an essential

part of the contract. Many piecework contracts cannot be distinguished from contracts by builders and the like, and appear not to be within the terms of this fifth section. Nor would it seem to make any difference even if the contract were to execute the piecework personally. Domestic servants are, on the contrary, included by these words, since they are not, as in the other Act, expressly excluded. In both these respects, the Conspiracy Act seems to differ from the Employers and Workmen Act. In both sections four and five option of trial by jury is given to the accused, which may be either at Quarter Sessions or at the Assizes, in the discretion of the committing magistrate. An unfavourable interpretation might very easily put a different complexion upon the fifth section to that which Mr. Cross gave to it. As he views it, we cannot regard it as unjust, but of a totally different character to the fourteenth section of the Master and Servants Act. Its administration demands careful watching, and if a trial takes place counsel should be engaged to argue these points, if possible, before one of the superior judges.

Section six makes the criminal neglect by a master of an apprentice a crime punishable by six months' hard labour, or £20 fine. By section eleven, upon the hearing of any case under sections four, five, and six, a wife may give evidence for or against a husband, or a husband for or against his wife, and the accused may give evidence for himself, which is not generally the case.

Thus far, then, the new laws, if interpreted according to Mr. Cross's speeches, though they might well have received further protective limitations, constitute a great measure justly conceived and justly carried into execution. It only remains for us to offer a few remarks upon the seventh section, now substituted for the Criminal Law Amendment Act, which has been repealed. The new section is general in form, applying to all citizens alike. In this the principle for which we have long contended is recognised, that all offences against the person, or which all men can commit, shall be general in form, and applicable to all citizens of whatever position or class. The benefit of this is, that when the law is administered, the effect of new interpretations upon the whole people has to be considered. When a law is general, judges will be more guarded in their interpretations, than where the law is especially levelled at certain classes. It is to be hoped, now the current of opinion has much altered in reference to trade combinations, that workmen will receive that just treatment at the hands of our superior tribunals which we believe is happily the rule. Trade unionists have hitherto come into court as trades unionists, which was synonymous with conspirators. No one cognizant

with courts of justice can deny, that, as such, they were heavily weighted, and the chances were all against them. It will take many years to wipe out the recollection of what occurred at the Cabinetmakers' trial. A full investigation of several days, before an experienced and trained stipendiary, judgment by him that the affair was a trade dispute, and had not the character of a crime, that he felt bound by the red and blue omnibus decision to commit for trial, but he would otherwise have dismissed the case. A charge by Mr. Russell Gurney, the Recorder, to the grand jury to throw out the Bill. The Bill was found, and the men were convicted and sentenced to one month's imprisonment, upon evidence which proved nothing more than successful persuasion.

In what does the new clause differ from the old Act? Chiefly in substituting the word compel and the sentence following, instead of the word "coerce," and in the last part of it expressly legalising watching to communicate or obtain information. The Opposition made a valuable effort expressly to legalise "peaceful persuasion." This was not carried, but it was distinctly said by the Government that peaceful persuasion was legal under the Act. If so, that is what the workmen claim, namely, the legal right of peaceful picketing. In this sense the section need work no injustice. If it prevents intimidation so much the better. But the law, notwithstanding its improved character, its general form, and the extremely valuable option of trial by jury, is a very stringent penal law, applicable to those very actions which stand on the border land of criminality. If interpreted wisely and justly, according to the expressions of Mr. Cross and Mr. Russell Gurney, it may prove a very valuable protection to the weak. On the other hand, it is still capable of being abused, and may become a source of oppression. It must be watched narrowly and keenly. The attitude and silence of the House of Commons about the Cabinetmakers was not reassuring, but Mr. Cross again and again said that this section is the embodiment of Mr. Russell Gurney's charge in the case of the Cabinetmakers. If, therefore, the decisions conflict with that charge, a case will be at once made out against this section. Meanwhile, we may look upon it as effecting a great change in principle, in modifying the dangerous language about coercion used by the judges, and in giving magistrates the option of fining, and in giving the accused the option of trial by jury. Thus it will be seen that even the most doubtful parts of these Acts have their favourable side.

Even if judicial decisions are adverse, the two statutes constitute a great and generous measure of justice, which none of us expected. We remind workmen that important as it is to have just laws, it is still

more important that there should be wise and just administration. We believe that the true policy of working class effort is to accept these laws heartily, subject to the valuable statements we now possess, assuming that the clauses will be rightly interpreted, prepared to take action if they are not, and, lastly, to urge Mr. Cross and the Conservative Government to deal with the administrative questions and the law of Summary Jurisdiction, in the same broad and generous spirit with which they have carried out this legislation. In conclusion, it may not be out of place to express our appreciation of Mr. Cross's attitude towards the workmen and those who have worked for the emancipation of labour. Having so long been accustomed to a treatment of suspicion and abuse, it is difficult to pass over, without notice, Mr. Cross's frank acknowledgment that the working class demands were made solely with the intention and desire of obtaining justice.

HENRY CROMPTON.

NOTE.—“I have considered the above statement, and concur in it generally.”

FREDERIC HARRISON.

Gloucester, September 10th.

The Parliamentary Committee have carefully read the above digest of the New Labour Laws, by Mr. Henry Crompton, and heartily endorse its conclusions, and hope that it will be carefully perused by all those who are interested in these questions.

Signed

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APPENDIX D.—DECISIONS WITH REGARD TO MARRIED WOMEN, UNDER THE EMPLOYERS AND WORKMEN ACT.

At Westminster police-court, a few weeks ago, an order was made against Elizabeth Hemmings, of 10, Bywater-street, Chelsea, upon the complaint of Mr. Henry Phillips, a boot-closer, of 48, First-street, Chelsea, for the payment of £1 4s. and costs, she having left his employment without notice. The amount not being paid, a distress warrant issued. This cost the complainant 3s., but it was returned *nulla bond*, and consequently he took out a summons calling upon her to show cause why she should not be dealt with according to law. The defendant said she had no goods to satisfy the amount, and, apart from that, she was a married woman. Mr. Arnold said it had been decided in the case of "Tomkinson (appellant) and West (respondent)" (39 "Justice of the Peace," 293), in the Court of Queen's Bench, that a married woman could not be convicted under the Master and Servants Act (30 & 31 Vict., cap. 141) for leaving her employment without notice, on the ground that she, as a married woman, was incapable of contracting, and that, consequently, there was nothing to bind her as between her and her employer. In "Hodkinson (appellant) and Green (respondent)" (39 "Justice of the Peace," 372) the Court held that an order on a married woman under the same Act to pay money by way of compensation under similar circumstances could not be made. The summons was then dismissed. In "Arnold's Digest," "Employers and Workmen," 1875, it is said that "in the former case it did not appear that the provisions of the Married Women's Property Act were brought under the notice of the Court, but in the case of Hodkinson they were. Mr. Justice Blackburn said, 'We have already decided the point and cannot re-open it.' The result would seem to be that if a married woman enters into a contract of service she may enforce it under the Married Women's Property Act for the recovery of wages due to her, but that it could not be enforced against her either under the Conspiracy Act or the Employers and Workmen Act."—*Capital and Labour*, March 1st, 1876.

APPENDIX E.—MUTUALITY OF CONTRACTS.

On page 11, under the heading "Mutuality of Contracts," occurs the following remarks:—"It would appear that a contract to be mutual, must give corresponding rights to both parties, and, therefore, in those cases of frequent dispute, relating to discharge or leaving work without formal notice, the right to do so in the one case would give a similar right in the other, *at least in the absence of usage or express agreement to the contrary effect.*"

The author's attention has been called to this passage—especially to those words in italics—by a County Court judge of great ability, and of long experience with regard to all questions appertaining to the law of contracts of hiring and of service. He writes:—"I have seen so much of attempts to make one-sided contracts as to work binding, that I have made many efforts to impress upon employers that *under no circumstances* can they legally say to a man you are bound to give me all your time, and by the usage of my trade I am not bound to find you full work."

In preparing this work for the press, the author had been strongly impressed with the same conviction, but he was very anxious not to give too great prominence to the point lest it should lead to litigation; moreover the question is so delicate in its surroundings and bearings that legal advice should always be sought before taking such a case into court. The author, however, is decidedly of opinion that if a point was raised as to whether any contract of hiring was binding in law, which was not a mutual contract, that the courts would not enforce such a contract.

He is also convinced that many contracts now enforced by employers, or sought to be enforced, would not be held valid in law as a mutual contract.

And, further, he did not intend, by the passage quoted above, to convey the impression "that any usage or agreement would make a contract of hiring binding in law as a mutual contract which did not expressly or

impliedly bind the employer to find work for the journeyman, *as continuously, and as regularly*, as it bound the journeyman to work."

The law regards equality of contract as essential to bind both parties, and by the Employers and Workmen Act, 1875, contracts may be rescinded.

But it must be remembered that the rule in law that there must be mutuality in contracts does not at all mean that there must be co-extensive, or corresponding obligations on the same point. It is only necessary that there shall be some consideration to be received by each party for that which he undertakes. A contract would not be set aside merely because it was unequal, unless such inequality amounted to no "consideration." In practice many of those "implied contracts," by the usage of particular trades, and especially those relating to discharge, or leaving work, where no express agreement has been made, are so unequal that they really amount to no "consideration;" in such cases the court would have regard to the mutuality of the contract.

Workmen must, however, learn to make prudent contracts, and to carry them out loyally when made, even if they have been imprudently or unwisely made.

APPENDIX F.

“AN ACT TO CONSOLIDATE AND AMEND THE
LAW RELATING TO FRIENDLY AND OTHER
SOCIETIES.”—SECTION 28.

§ 2 of the Trade Union Act Amendment Act, 1876, says:—

Trade unions
to be within
s. 28 of
Friendly
Societies Act,
1875.

“Notwithstanding anything in Section 5 of the principal Act contained, a trade union, whether registered or unregistered, which insures or pays money on the death of a child under ten years of age shall be deemed to be within the provisions of Section 28 of the Friendly Societies Act, 1875.”

Applies to all
trade unions
registered or
unregistered.

It is important to bear in mind that this section applies alike to all trade unions whether registered or unregistered, which insures or pays money on the death of a child under ten years of age; as some difficulty has already arisen with regard to its provisions the entire section is here given:—

Payments on
death of chil-
dren.
Limitation of
payments.

“With respect to payments on the death of children under ten years of age, the following provisions shall have effect:

(1.) No society shall insure or pay on the death of a child under five years of age any sum of money which, added to any amount payable on the death of such child by any other society, exceeds six pounds, or on the death of a child under ten years of age any sum of money which, added to any amount payable on the death of such child by any other society, exceeds ten pounds.

Who may re-
ceive pay-
ments.

(2.) No society shall pay any sum on the death of a child under ten years of age except to the parent of such child, or to the personal representative of such parent, and upon the production by such parent or his personal representative of a certificate of death issued by the registrar of deaths, or other person having the care of the register of deaths, containing the particulars after mentioned.

(3.) Whenever a certificate of the death of a child is applied for, for the purpose of obtaining a sum of money from a society, the name of such society and the sum sought to be obtained therefrom shall be stated to the registrar of deaths, who shall write on or at the foot of such certificate the words "to be produced to the society" (naming the same) "said to be liable for payment of the sum of £ " (stating the same), and all certificates of the same death shall be numbered in consecutive order, and the sum charged by the registrar of deaths for each such certificate shall not exceed one shilling.

Particulars of certificates.

(4.) No registrar of deaths shall give any one or more certificates of death for the payment in the whole of any sum of money exceeding six pounds on the death of a child under five years, or for the payment in the whole of a sum exceeding ten pounds on the death of a child under ten years; and no such certificate shall be granted unless the cause of death has been previously entered in the register of deaths on the certificate of a coroner or of a registered medical practitioner who attended such deceased child during its last illness, or except upon the production of a certificate of the probable cause of death under the hand of a registered medical practitioner, or of other satisfactory evidence of the same.

Registrars of deaths only to give certificates in certain cases.

(5.) Any society to which is produced a certificate of the death of a child which does not purport to be the first shall, before paying any money thereon, be bound to inquire whether any and what sums of money have been paid on the same death by any other society.

Inquiry to be made by societies.

(6.) It shall be an offence under this Act—

- (a.) If any society pays money on the death of a child under ten years of age otherwise than is provided by this Act;
- (b.) If any parent or personal representative of a parent claiming money on the death of a child produces any certificate of such death other than is herein provided to the society or societies from which the money is claimed, or produces a false certificate, or one fraudulently obtained, or in any way attempts to defeat the provisions of this

Offences under this section.

Extent of
word "So-
ciety."

Act with respect to payments upon the death of children.

(7.) The word "society" in the present section shall include all industrial assurance companies assuring the payment of money on the death of children under the age of ten years.

Assurances on
children's
lives not to be
void under 14
Geo. 3. c. 48.

(8.) No assurance made or to be made by any industrial assurance company, of a sum of money payable on the death of a child under the age of ten years, which would be valid if effected with a registered society, shall be invalidated by reason of any provision contained in the Act of the fourteenth year of His late Majesty King George the Third, chapter forty-eight, for regulating insurances upon lives and for prohibiting all such insurances except in cases where the person insuring shall have an interest in the life of the persons insured.

Insurable in-
terests.

(9.) Provided that nothing in this section contained shall apply to insurances on the lives of children of any age, where the person insuring has an interest in the life of the person insured, or to existing contracts."

OPINIONS OF THE PRESS.

CAPITAL AND LABOUR, JULY 12TH, 1876.

"THE late Parliamentary secretary to the Trade Union Congress has written a popular guide to the various Labour Acts, from that of Russell Gurney in 1868 down to the Employers' and Workmen Act, and the Conspiracy and Protection of Property Act of 1875, with the amendment to the Trade Unions Act of this year. The book is not intended for lawyers, but for workmen. The author states that his object has been to give the true legal meaning and force of the Acts and their application, and at the same time to avoid as far as possible legal technicalities and minute references. He has performed his task carefully and thoroughly; and this little manual, judged by its avowed purpose, is worthy of high commendation. Mr. Howell very properly points out that workmen must be particular in entering into contracts, and must not break them when made; and organized bodies of workmen must insist upon their members fulfilling all the conditions of the law honestly and fairly. He further points out that it would be well that more prominence should be given to the subject of contract and breach of contract in the rules of trade societies. The substance and scope of the various Acts are clearly stated, avoiding as far as possible mere technical phraseology, while setting forth in a plain and correct manner their different provisions. The rules of procedure are also given, with the various forms and schedules issued by the Lord Chancellor and the Home Secretary. Taken as a whole, Mr. Howell's Handy-Book will be found very useful, and he deserves great credit for the manner in which it has been compiled, and for the general spirit which prevails in his own comments. While he has avowedly written for workmen, he has evidently also sought to make it useful to employers, and has at the same time given sound law and advocated a wise policy."

ATHENÆUM, JULY 15TH, 1876.

"Mr. Howell's book is likely to be highly useful to the numerous class of persons who, without any legal training, are anxious to know the bearing of recent legislation on the labour question. It is not a text-book for lawyers, but a guide-book for workmen and for all interested in workmen's questions. His plan is to give a 'translation' (if the expression may be allowed) into the language of every day life of each of the Acts with which his book deals. He does this section by section, in a very complete way. He also points out as he goes along where the bearing of various sections is modified by other Acts, to which he gives a brief reference; and after the translation he gives the text of the Act itself."

MANCHESTER CRITIC, JULY 14TH, 1876.

"At a time when a very great and important alteration has just been made in the law regulating the relations of employer and employed, we are exceedingly glad to welcome a little work from the pen of Mr. George Howell, the late able Parliamentary Secretary of the Trades' Unions of Great Britain, and the author of several popular books on cognate subjects. By collating the Acts bearing upon the topics now under discussion, and presenting them in a small compass, with an introduction accurate yet sufficiently popular, Mr. Howell has done good service to the reader interested in trade matters, whether he be employer or workman."

THE SCIENTIFIC AND LITERARY REVIEW, JULY 1ST, 1876.

"Mr. Howell puts forth this work as one intended for the instruction and guidance of the working classes; but we are disposed to think that it may be found useful even by the legal man, as affording for general purposes a comprehensive view of the Labour Laws; and we are quite sure employers of labour will find it a very useful book of reference, for although Mr. Howell is ranged on the side of the workmen, he is so careful to avoid incorrect statements, and shows so much impartiality in dealing with the interests of masters that his work may be relied upon as one that gives a true view of the law in all its practical bearings, with all the necessary information as to legal procedure, especially in regard to county courts, which will doubtless be the tribunals where many of the labour cases will be litigated. As a voucher for the legal soundness of Mr. Howell's work, it may be mentioned that it has been submitted to the revision of barristers of eminence, and, certainly, as far as we can judge (even using legal acumen in forming a decision), is worthy of the confidence of all who wish for information on the Labour Laws."

LLOYD'S, JULY 15TH, 1876.

"The book has a decided political tinge, and, as it will be widely circulated, it deserves study. All the statute law in force with regard to employers and workmen is given, and the various Acts are printed one after the other; they are explained and divided as the case may require; the clauses being inserted verbatim—or rendered by a periphrasis, according as they are "subtle" or not. General principals of common law are enunciated at the beginning of various sub-divisions of the Acts, supported by cases, vaguely cited. We find the rules of the Home Secretaries in 1871 and 1873, and the forms issued by the Registrar of Friendly Societies; and Mr. Howell has introduced some remarks upon the working and reach of the Trade Union Act, and upon its shortcomings. Tables of costs, rules, and regulations, modes of putting the Acts into operation, and much practical advice are offered in this little volume. Mr. Howell appears to have the subject well in hand, and, we may add, at heart, and no pains have been spared to render it of sterling value. A law book is not the place to make political manifestations of no matter how insignificant a description. But as a whole Mr. Howell's book can be welcomed and deserves success."

BEE-HIVE, JULY 15TH, 1876.

"The Handy-Book of the Labour Laws is an able production. It has been got up with great care, much thought, and deep research. These facts, combined with the author's experience and observation in the working of all laws bearing upon labour, entitle the book to high commendation. We hope that the trades unionists will make an earnest effort to circulate this most useful and valuable book."

THE PROVINCIAL TYPOGRAPHICAL CIRCULAR, JULY 1ST, 1876.

"The promised work by Mr. Howell has just been published, and the volume, while containing much valuable matter, presents a very creditable appearance, so far as typography and binding are concerned. The position which Mr. Howell held for several years as Secretary to the Parliamentary Committee of the Trades' Union Congress afforded opportunities of becoming intimately acquainted with the laws relating to labour; and, as he also in that capacity took an active part in securing the amendments which have been made, there is necessarily no one better qualified to explain the precise bearing of all the statutes affecting workmen in relation to their employers. The work contains the text of all the Acts relating to labour, or under which workmen are liable to be brought, with an explanatory introduction to each, and other interesting matter. Mr. Howell's explanations of the various Acts are clear and explicit, and the book will certainly be found an invaluable one to all who wish to thoroughly understand the subject on which he treats. It is fortunately published at such a price, 2s. 6d., that no individual need allow the cost to be an obstacle to possessing one."

"The suggestion may have been made before—at any rate, we make it now—that each district office of the labourer's unions should possess a small library, to which the secretary and delegates can refer for guidance on doubtful points. It would probably save some money now spent in obtaining legal advice, and would certainly save much time, trouble and correspondence if books on parish elections, the charities of the district, and the legal rights of employers and employed, were in each official's hands who is liable to be consulted on these points. Mr. George Howell's Manual of the Labour Laws should form part of such a library; it is certainly a book that will be bought by all the large trade societies of the country, and there is every reason why farm labourers should equally avail themselves of its contents. No handy book of the Labour Laws will in every case do instead of a lawyer; but Mr. Howell's book is as good a substitute on labour questions as could well have been devised. It contains in full all the Acts of Parliament under which action is usually taken by employers against employed, and *vice versa*. It further explains these Acts, and shows how far they are improvements on the Labour Laws of the past, and where, if anywhere, they may be expected to fail in doing justice to workmen. Plain and useful explanation has indeed been Mr. Howell's object. We have good reason for knowing that what Mr. Howell has written is good in point of law. Added to his own intimate acquaintance with the framing and working of the Acts in question, he has had valuable help from practical lawyers, magistrates, and others whose names are sufficient guarantees for the soundness of their judgments. So much for the general excellence. But Mr. Howell's book is certainly not less important to the employer than it is to the employed. The new Labour Laws, though they work comparative justice to the workman, work no injustice to the master; and it is of the utmost importance to the latter to know how he may most quickly bring a bad workman to book. Mr. Howell shows no one how to escape the fulfilment of a contract. His advice as to the caution with which contracts should be entered into, and the dishonour of breaking them when once made, is identical with that lately given by Mr. Henry Crompton in these columns. Mr. Howell is, as might be expected, impartiality itself on all such matters, and his book is one we can heartily recommend to all, whether employers or employed, who are likely to be concerned in labour disputes.

AMALGAMATED CARPENTERS AND JOINERS' MONTHLY REPORT (SEPTEMBER, 1876).

Those of our members who desire to acquaint themselves with the laws relating to labour, and to have a clear exposition of the technical language which often renders Acts of Parliament obscure to working men, will do well to purchase and carefully study "A Handy-Book of the Labour Laws," by Mr. George Howell, late Secretary to the Parliamentary Committee of the Trades Union Congress. It is well known that the author has for several years past been actively engaged in endeavouring to secure the repeal of the penal laws specially directed against workmen, and the knowledge and experience which he thus acquired, he has utilised by giving to working men an opportunity of making themselves conversant with the new laws by which they are now governed. The text of the following acts is given, with notes lucidly explaining all doubtful or obscure passages: The Employers and workmen Act (1875); Conspiracy and Protection of Property Act (1875); Trade Union Acts (1871 and 1876); Russell Gurney's Act (1868); and the Arbitration Act (1872). The work also contains the rules issued by the Lord Chancellor for carrying into effect the Employers and Workmen Act; the rules and forms issued in connection with the Trade Union Act; an abstract of the New County Court Act, orders, and rules; Mr. Henry Crompton's digest of the Labour Laws, and a variety of other interesting and important matter. Members residing within the United Kingdom who desire to obtain a copy of this valuable work, can be supplied on application to their branch secretary.

DAILY TELEGRAPH, JULY 4TH, 1876.

"Mr. George Howell, late Parliamentary Secretary to the Trades Unions of Great Britain, has compiled a tolerably accurate and easily understood 'Handy Book of the Labour Laws.' Most useful is the information given, and the book is one which should be in the library of every working man."

PALL MALL GAZETTE, SEPT. 1ST, 1876.

"The legislation of last year upon the relations of employers and workmen has been supplemented during the recent session by an Act amending the Trade Union Act of 1871 in several details of administration. The general tendency of the amendments is to extend to Trades Unions many of the special privileges of Friendly Societies. The power to insure the lives of young children, and to get substitutes for absent or incapable trustees, the validity of the membership of minors, the right to nominate to benefits in case of death, and the right to amalgamate with other unions, are among the chief of these. Further, in consequence of a difficulty suggested by the Registrar to the law officers of the Crown, the definition of a trade union has been extended so as to include societies which would not have been illegal even without the Act of 1871. The passing of this amending statute is looked upon by the Unionists as a crowning of the edifice, and is seized upon by Mr. George Howell as a fitting opportunity for the publication of a handy book of all the recent laws upon the subject. It is intended for the use of workmen and union officers, and is very modest in its claims, and likely for that reason to be all the more useful. It contains the text of Mr. Russell Gurney's Act of 1868, the Trade Union Acts of 1871 and 1876, the Arbitration Act of 1872, and the Employers and Workmen Act, and the Conspiracy and Protection of Property Act, 1875, with introductions which to some extent disencumber them of their technical language. The spirit of all the advice given should be welcomed as a signal change to that to which we were accustomed a few years ago. The leaders of the workmen appear to think that they have as much as they are entitled to in the way of legal machinery, and are content to follow out their aims within the lines laid down for them. The feeling displayed in this small legal manual will probably go far to account for the continued popularity of the present Government. Their courage in placing the labour laws upon a logical and just footing has earned them a very widely-spread feeling of gratitude. Appended to the book is a critical estimate of the Acts of last year by Mr. Henry Crompton, the general tone and ideas of which have served Mr. Howell for a model and guide in his own observations on the subject. The book makes no pretension to be a law book; but it will be a useful edition of the Acts for those on whose behalf it is written."

IRONFOUNDERS' MONTHLY REPORT, SEPT. 3TH, 1876.

"We have been requested by some of our members to get for them George Howell's 'Handy Book of the Labour Laws,' and as we wish every member to have a copy, we shall be glad to order as many as our members require. All that we can say on the subject is, that it is the best book on the subject which has ever come under our notice."

THE LABOURER (BOSTON), JULY 8TH, 1876.

"It is with great pleasure that we notice an excellent work on those [labour] laws by Mr. George Howell, the late Secretary of the Parliamentary Committee of the Trades Union Congress. No man in England, from the workman's standpoint, is better qualified to write on the Labour Laws than is Mr. Howell, and although the work is only in size a handy half-crown volume, yet it really and in the most complete sense is what its title-page states, a Handy-book on the Labour Laws. We say buy, and read, and thoroughly understand this valuable work. It is strongly and handsomely bound, and the printing is excellent; once more we say, buy and read Mr. Howell's book on the Labour Laws."









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